

# Washington State Register

**FEBRUARY 7, 1996**

**OLYMPIA, WASHINGTON**

**ISSUE 96-03**



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filed not later than January 24, 1996

## 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

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of February 1996 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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# WASHINGTON STATE REGISTER

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### 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.

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry 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].

**1995 - 1996**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
95-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
95-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
95-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
95-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
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
96-01	Nov 22	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 23
96-02	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 17	Feb 6
96-03	Dec 27, 1995	Jan 10, 1996	Jan 24	Feb 7	Feb 27
96-04	Jan 10	Jan 24	Feb 7	Feb 21	Mar 12
96-05	Jan 24	Feb 7	Feb 21	Mar 6	Mar 26
96-06	Feb 7	Feb 21	Mar 6	Mar 20	Apr 9
96-07	Feb 21	Mar 6	Mar 20	Apr 3	Apr 23
96-08	Mar 6	Mar 20	Apr 3	Apr 17	May 7
96-09	Mar 20	Apr 3	Apr 17	May 1	May 21
96-10	Apr 3	Apr 17	May 1	May 15	Jun 4
96-11	Apr 24	May 8	May 22	Jun 5	Jun 25
96-12	May 8	May 22	Jun 5	Jun 19	Jul 9
96-13	May 22	Jun 5	Jun 19	Jul 3	Jul 23
96-14	Jun 5	Jun 19	Jul 3	Jul 17	Aug 6
96-15	Jun 26	Jul 10	Jul 24	Aug 7	Aug 27
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1997

<sup>1</sup>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.

<sup>2</sup>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.

<sup>3</sup>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;

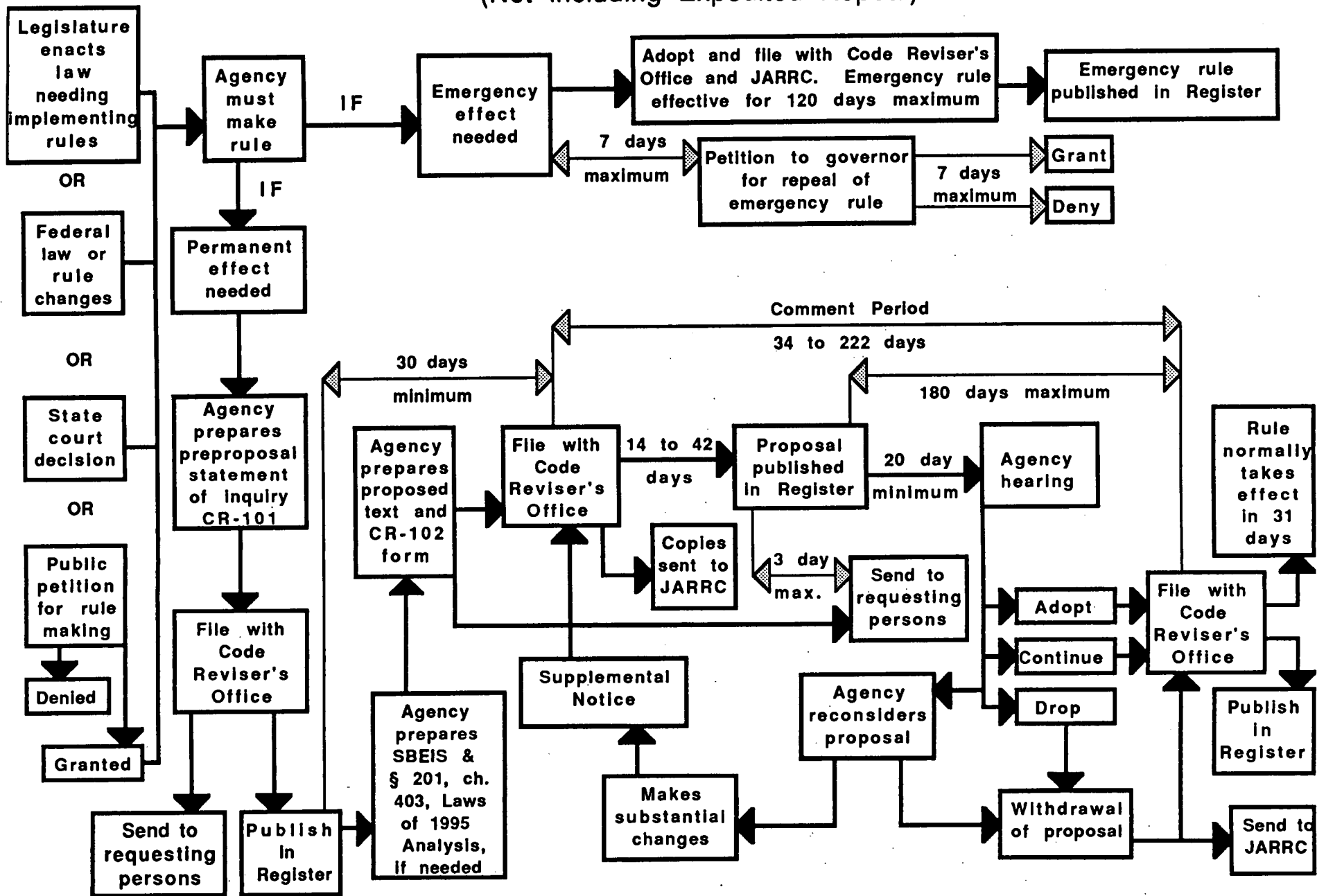
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

(Not including Expedited Repeal)



**WSR 96-03-012**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)  
 [Filed January 5, 1996, 11:25 a.m.]

Subject of Possible Rule Making: WAC 246-883-020 Identification of legend drugs for purposes of chapter 69.41 RCW, this rule updates the official listing of the 1995 edition of the American Druggist Blue Book.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board has adopted the American Druggist Blue Book as the official listing of legend drugs in the state of Washington. The changes will keep our rule current with the book changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Public meetings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Board of Pharmacy, Donald H. Williams, P.O. Box 47863, Olympia, WA 98504-7863, phone (360) 753-6834, FAX (360) 586-4359.

December 12, 1995  
 Donald H. Williams  
 Executive Director

**WSR 96-03-037**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed January 10, 1996, 11:50 a.m.]

Subject of Possible Rule Making: Revising charges paid by credit unions and related parties to the Division of Credit Unions (revising chapter 419-18 WAC).

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 112 of the Governor's Proposed 1996 Supplemental Operating Budget Bill; RCW 43.320.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are needed to provide the Division of Credit Unions with adequate funding to pay the cost of its operation, including funds to begin building a contingency reserve. The rules will accomplish two things:

1. They will increase the amount of revenue to the division.
2. They will shift some of the financial burden of paying for the operation of the division from the credit unions with \$20 million or less in total assets to those that are larger.

The division has worked extensively with the Washington Credit Union League over the past year to develop a new fee structure for the division. The rules will implement this structure. The preliminary draft of the structure is as follows:

Credit union asset size category	Total assets in that category	semi-annual factor or fee
over \$500M	1,971,684,438	\$10,207 + \$26,507 + .03 per thousand over \$500,000,000
over \$100 M to \$500 M	2,934,787,968	\$10,207 + .066268 per thousand over \$100,000,000
over \$20 M to \$100 M	1,178,823,841	.10207 per thousand of total assets
over \$10 M to \$20 M	282,673,682	\$2,250 per semi-annual assessment
over \$2 M to \$10 M	166,617,996	\$1,500 per semi-annual assessment
over \$200K to \$2 M	14,850,250	\$1,000 per semi-annual assessment
under \$200 K	-	no fee
WCCCU	198,419,251	.0504 per thousand of total assets
<b>Total</b>	<b>6,747,857,426</b>	

M=million; K=thousand

Under this new structure, credit unions will no longer pay hourly examination fees. They will pay assessments based on their asset size, and will pay hourly fees for the division's processing of associational and community charter applications.

In accordance with Initiative 601, the new fee structure must be approved by the legislature. Section 112 of the Governor's Proposed 1996 Supplemental Operating Budget Bill will provide such approval, if adopted. Consequently,

the rules are contingent on passage of the legislative approval. However, because the rule-making process takes at least five or six months to complete, the division is beginning the rule-making process now so that the new rules can be put into effect no later than July 1, 1996.

Process for Developing New Rule: Agency study; and consultation with interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting J. Parker Cann, Acting Assistant Director, phone (360) 902-8778 or Linda K. Jekel, Program Manager, phone (360) 902-8753, Department of Financial Institutions, P.O. Box 41200, Olympia, WA 98504-1200, FAX (360) 902-8800.

January 10, 1996  
John L. Bley  
Director

**WSR 96-03-044****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF TRANSPORTATION**

[Filed January 11, 1996, 9:47 a.m.]

**Subject of Possible Rule Making:** Conduct and management of emergency air operations air search and rescue/disaster relief.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 47.68 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To insure the proper training, registration, conduct and management of aerial search and rescue.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department will meet with various search and rescue groups. For more information and background information please contact Brian A. Holmes, Chief Pilot, Washington State Department of Transportation, Aviation Division, (800) 552-0666.

January 10, 1996  
S. A. Moon  
Deputy Secretary  
for Operations

**WSR 96-03-064****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 16, 1996, 10:58 a.m.]

**Subject of Possible Rule Making:** Freedom from infestation by plant pests.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 15.13.260, [15.13].390.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The rule creates the rule required in RCW 15.13.390. It will define freedom from plant pests and set standards for determining freedom from plant pests. It will facilitate the commerce in horticultural plants.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with these Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Preproposal

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mr. Tom Dabalos, Program Manager, Washington State Department of Agriculture Oakurst Park Offices, 1851 South Central Place, Suite 211, Kent, WA 98031-7507, (206) 872-6480, FAX (206) 872-6320. Persons may request to participate in meetings and public hearings where this rule is formulated and reviewed.

January 4, 1996  
K. Diane Dolstad  
Assistant Director

**WSR 96-03-085****PREPROPOSAL STATEMENT OF INQUIRY  
GAMBLING COMMISSION**

[Filed January 18, 1996, 11:47 a.m.]

**Subject of Possible Rule Making:** Streamlining the recreational gaming activity permit process.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 9.46.215, 9.46.070 (4), (11), (14), (17), (20).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Legislative and constituent inquiries into the recreational gaming activity permit process identified points where the process could be streamlined. Agency study of the process confirmed that modifications could be made within the Gambling Commission's statutory mandates to regulate control of professional gambling devices.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making; agency study; and legislative inquiry.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, phone (360) 438-7654, ext. 310, FAX (360) 438-8652. Meetings on February 8 and 9, at 10:00 a.m., Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700; on March 14 and 15, at 10:00 a.m., Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850; and on April 11 and 12, at 10:00 a.m., The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000.

January 18, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

**WSR 96-03-086****PREPROPOSAL STATEMENT OF INQUIRY  
GAMBLING COMMISSION**

[Filed January 18, 1996, 11:49 a.m.]

**Subject of Possible Rule Making:** Adding "bid whist" and "dominos" to the list of authorized social card and tile games.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 9.46.0281, 9.46.070 (1), (2), (14), (20).



Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Request from the community to include the games "bid whist" and "dominos" on the list of authorized social card games.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making; and agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, phone (360) 438-7654, ext. 310, FAX (360) 438-8652. Meetings on February 8 and 9, at 10:00 a.m., Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700; on March 14 and 15, at 10:00 a.m., Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850; and on April 11 and 12, at 10:00 a.m., The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000.

January 18, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

#### WSR 96-03-087

#### PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed January 18, 1996, 11:50 a.m.]

Subject of Possible Rule Making: New rule requiring licensees to follow posted house rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 (14), (20).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Customer complaints to the Gambling Commission about commission licensees not abiding by posted house rules and subsequent investigations have identified the need for the rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, phone (360) 438-7654, ext. 310, FAX (360) 438-8652. Meetings on February 8 and 9, at 10:00 a.m., Ramada Governor House, 621 Capitol Way South, Olympia, WA 98501, (360) 352-7700; on March 14 and 15, at 10:00 a.m., Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850; and on April 11 and 12, at 10:00 a.m., The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000.

January 18, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

#### WSR 96-03-091A

#### PREPROPOSAL STATEMENT OF INQUIRY INSURANCE COMMISSIONER'S OFFICE

[Order R 96-1—Filed January 19, 1996, 9:44 a.m.]

Subject of Possible Rule Making: Requirements for transmittal form to accompany filings of rates and forms of contracts filed with the Insurance Commissioner.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Uniformity of requirements for transmittal forms for filings of rates and forms of contract is desirable and efficient. WAC 284-14-010 and 284-14-020 were repealed in 1995; these rules replace the filing requirement sections of the repealed rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study; and for questions regarding the substance of these rules, contact Patrick Musick at (360) 664-2093.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3790, FAX (360) 586-3535, Internet inscomr@aol. Deadline for written comments: March 15, 1996.

January 18, 1996  
Krishna Fells  
Chief Deputy

#### WSR 96-03-096

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed January 19, 1996, 4:20 p.m.]

Subject of Possible Rule Making: WAC 388-215-1390 Deprivation—Redetermination of eligibility when deprivation ceases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.12.036.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As required under RCW 74.12.036, the department must file this rule in order to adopt a state plan amendment to eliminate the 100-hour rule for AFDC-E clients. This rule will extend AFDC-E benefits for up to a six-month period following full employment.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study, internal (management) and external (field staff, legal services, other state and the Department of Social and Health Services, division/administrations) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting Sandy Jsames, Program Manager, Welfare Reform Section, Division of Income Assistance, Mailstop 45400, phone (360) 438-8313, FAX (360) 438-8258.

January 19, 1996  
Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

Process for Developing New Rule: Agency study.  
Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tony Birch, Dean of Administrative Services, Clark College, 1800 East McLoughlin Boulevard, Vancouver, WA 98663-3598, phone (360) 992-2123, FAX (360) 992-2865.

January 19, 1996  
Earl P. Johnson  
President

**WSR 96-03-098**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)  
[Filed January 19, 1996, 4:22 p.m.]

Subject of Possible Rule Making: WAC 388-515-1505  
COPEs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed amendment is necessary to delete an obsolete subsection (2). The correct exemption of SSI income is found in WAC 388-513-1380. This proposal also deletes a cross reference in subsection (3)(a).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Internal and external review process. Draft material is distributed for review and comment. All comments will be considered before the final rule is issued.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

January 19, 1996  
Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-03-101**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**CLARK COLLEGE**

[Filed January 22, 1996, 10:04 a.m.]

Subject of Possible Rule Making: Chapter 132N-276  
WAC, Public records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.250 - [42.17.]340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 42.17.250 (1)(a) and (b) and 42.17.290 require the adoption of rules. The agency has had in existence the necessary rules. This effort is to effect editorial corrections and to incorporate a revised request for public records form.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: For student educational records we are governed by FERPA.

**WSR 96-03-106**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed January 22, 1996, 1:58 p.m.]

Subject of Possible Rule Making: Job modification during vocational retraining programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.32.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Repeal WAC 296-18A-520(5) as it inappropriately grants authority to use job modification funds during vocational retraining programs when no employer-employee relationship exists.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency received internal and external stakeholder comments during review of job modification policy prior to implementation.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Public hearing on Tuesday, April 30, 1996, between 1 and 5 p.m. in the auditorium of the Department of Labor and Industries Building, 7273 Linderson Way S.W., Tumwater, WA or by submitting written comments on or before 5 p.m., Tuesday, April 30, 1996, to Loretta Vosk, Department of Labor and Industries, Mailstop 4270, P.O. Box 44270, Olympia, WA 98504-4270, FAX (360) 902-4202, phone (360) 902-4617.

January 17, 1996  
Mark O. Brown  
Director

**WSR 96-03-109**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**WESTERN WASHINGTON UNIVERSITY**

[Filed January 23, 1996, 9:36 a.m.]

Subject of Possible Rule Making: Student rights and responsibilities code, chapter 516-23 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Add WAC 516-23-045, Interference with freedom of expression, to be added as an integral and necessary part of the student rights and respon-

sibilities code. Replaces prior repealed provision on same subject.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Connie Copeland, Office of Student Life, Old Main 340, Western Washington University, Mailstop 9025, Bellingham, WA 98225, phone TDD (360) 650-3625 or Office 650-3738, FAX (360) 650-6504.

January 22, 1996  
Gloria A. McDonald  
Rules Coordinator

#### WSR 96-03-110

##### PREPROPOSAL STATEMENT OF INQUIRY WESTERN WASHINGTON UNIVERSITY

[Filed January 23, 1996, 9:37 a.m.]

Subject of Possible Rule Making: Chapter 516-12 WAC, Parking and traffic regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update parking violations and increase fines as a deterrent and consequence to violating parking regulations; to make changes that will clarify or refine various existing elements of the parking system.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study (Parking Advisory Committee).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Wallace, Director, Parking Services, Western Washington University, Mailstop 9098, Bellingham, WA 98225, FAX (360) 650-3412, phone (360) 650-2945.

January 22, 1996  
Gloria A. McDonald  
Rules Coordinator

#### WSR 96-03-114

##### PREPROPOSAL STATEMENT OF INQUIRY BOARD OF ACCOUNTANCY

[Filed January 23, 1996, 10:06 a.m.]

Subject of Possible Rule Making: Third party compensation—Objectivity and independence.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Some certified public accountants (CPAs) seek to offer investment consulting and investment performance evaluation services to their clients. Some registered investment advisors (RIAs) desire to enter into agreements with CPAs whereby RIAs and CPAs would share service fees for comanaging the CPA's clients' investment portfolios.

Existing board rules (WAC 4-25-620 and 4-25-622) require CPAs to maintain objectivity and avoid conflicts of interest. WAC 4-25-625 and WAC 4-25-627 prohibit CPAs from accepting commissions, referral fees, or contingent fees. These rules exist because the board has tried several complaint cases over the years wherein CPAs have mislead, defrauded, or otherwise abused clients' trust in investment sales transactions where the CPA was compensated by third parties for selling or referring a product to clients.

The board seeks testimony on this subject, including the following considerations:

(1) Are fee splitting arrangements (or other third party payments to CPAs) consistent with existing board rules requiring CPAs to maintain objectivity and avoid conflicts of interests?

(2) If not, will the public interest best be served by relaxing these rules?

(3) Are alternative safeguards (such as written disclosure of fee sharing, defined incompatible services (audits and reviews), client sophistication thresholds, or existing securities laws) adequate to protect clients from a CPA's conflicts of interests that result from the CPA's beneficial interest in a client's investment decisions?

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: (1) Washington State Department of Financial Institutions - Securities Division; and (2) United States Securities and Exchange Commission. The board will solicit comment from these organizations.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by written comment to Carey L. Rader, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 664-9194, FAX (360) 664-9190. In person: Information gathering hearing Thursday, May 23, 1996, 9:30 a.m., Bank of California Building, 900 4th Avenue, 24th Floor, Attorney General Training Center, Seattle, WA.

January 23, 1996  
Carey L. Rader  
Executive Director

#### WSR 96-03-116

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FINANCIAL INSTITUTIONS

(Securities Division)

[Filed January 23, 1996, 11:55 a.m.]

Subject of Possible Rule Making: Amending WAC 460-44A-503, 460-44A-505, and 460-44A-506, to more closely conform these sections to the similar federal provisions found in Regulation D to the Securities Act of 1933.

##### SOLICITATION OF COMMENTS

Regulation D of the federal Securities Act of 1933 contains two widely used private placement exemptions from federal securities registration, Rules 505 and 506. Distinguishing characteristics of these rules include a limitation to

thirty-five nonaccredited investors and a prohibition on general solicitation.

In order to allow offering subject to these rules to be made in this state, the division adopted WAC 460-44A-500 through 460-44A-508 beginning in 1982. As currently adopted, there are certain differences between our regulations and their federal counterparts:

1. Federal law requires that a Form D be filed to claim the exemption no later than fifteen days after the first sale. WAC 460-44A-503 requires that the form be filed no later than ten business days before any sale is made in Washington. In addition, this section differs from federal law by requiring that the issuer represent that it has reviewed, and will comply with, the Washington regulations; and mandating the filing of a report of sales upon the conclusion of the offering.

2. Washington regulations require that a person receiving a commission for selling one of these offerings to nonaccredited investors be registered as a broker-dealer or securities salesperson. The federal version of Regulation D does not impose a similar requirement.

The division intends to propose amendments which would eliminate the differences described in paragraph 1, above. That is, Washington would become a "post-sale" filing state and the representation and report of sale requirements would be eliminated. The division is seeking comment on whether the licensing requirements outlined in paragraph 2 should be modified or eliminated.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450, 21.20.320 (1), (17).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The subject regulations differ from their federal counterparts in certain respects, including the time of filing the Form D, and licensing requirements for compensated selling agents. The department is contemplating amendments which would make the federal and state filing deadlines identical and would other more closely conform the subject rules with their federal counterparts.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Securities and Exchange Commission (SEC) has rules that are similar to the subject rules. The contemplated amendments would more closely conform the subject rules to their federal counterparts.

Process for Developing New Rule: Review of similar federal rules was undertaken. The desired result is to make the subject rules more uniform with their federal counterparts.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-117**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

[Filed January 23, 1996, 11:56 a.m.]

Subject of Possible Rule Making: To recognize a simplified procedure for registration of Canadian broker-dealers or agents for the limited purposes of accomplishing trades with preexisting customers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish a simplified regime for registration as broker-dealer or agent for the limited purposes of accomplishing trades with preexisting customers, using the equivalent documentation of the applicant's home jurisdiction.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Proposals have been put forth by the North American Securities Administrators Association and by the state of Massachusetts regarding a simplified registration procedure for Canadian broker-dealers for transactions with existing clients. Drafts developed by NASAA committees made up of state regulators are circulated to all states, industry, and the federal Securities and Exchange Commission for comment.

Process for Developing New Rule: Drafts developed by NASAA committees made up of state regulators are circulated to all states, industry, and the federal Securities and Exchange Commission and are then voted upon by the NASAA membership. Other states may also circulate alternative proposals such as the Massachusetts version.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Securities Division of the Department of Financial Institutions with questions or comments: Brad Ferber, Securities Examiner, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

Alternative One (based upon NASAA proposal):

NEW SECTION

**WAC 460-20B-070 Limited registration of Canadian broker-dealers.** (1) A broker-dealer which is resident in Canada and has no office or other physical presence in the United States and is not an office or branch of, or a natural person associated with, a broker-dealer otherwise registered in the United States may, provided the broker-dealer is registered in accordance with this section, effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by, a person who is a Canadian person temporarily present in this state, with whom the Canadian broker-dealer had a bona fide broker-dealer-client relationship before the person entered this state.

(2) An agent who will be representing a Canadian broker-dealer registered under this section may, provided the agent is registered in accordance with this section, effect

transactions in securities in this state as permitted for the broker-dealer in subsection (1).

(3) A Canadian broker-dealer may register under this section provided that it:

(a) files an application in the form required by the jurisdiction in which it has its head office;

(b) files a consent to service of process;

(c) is registered as a broker or dealer in good standing in the jurisdiction from which it is effecting transactions into this state and files evidence thereof; and

(d) is a member of a self-regulatory organization or stock exchange in Canada.

(4) An agent who will be representing a Canadian broker-dealer registered under this section in effecting transactions in securities in this state may register under this section provided that he or she:

(a) files an application in the form required by the jurisdiction in which the broker-dealer has its head office;

(b) files a consent to service of process; and

(c) is registered in good standing in the jurisdiction from which it is effecting transactions into this state and files evidence thereof.

(5) If no denial order is in effect and no proceeding is pending under RCW 21.20.110, registration becomes effective on the 30th day after an application is filed, unless earlier made effective.

(6) A Canadian broker-dealer registered under this section shall:

(a) maintain its provincial or territorial registration and its membership in a self-regulatory organization or stock exchange in good standing;

(b) provide the Administrator upon request with its books and records relating to its business in the state as a broker-dealer;

(c) inform the Administrator forthwith of any regulatory, disciplinary or criminal action being taken against it; and

(d) disclose to its clients in the state that the broker-dealer and its agents are not subject to the full regulatory requirements of the Act.

(7) An agent of a Canadian broker-dealer registered under this section shall:

(a) maintain his or her provincial or territorial registration in good standing; and

(b) inform the Administrator forthwith of any regulatory, disciplinary or criminal action being taken against him or her.

(8) Renewal applications for Canadian broker-dealers and agents under this section must be filed before December 1 each year and may be made by filing the most recent renewal application filed in the jurisdiction in which the broker-dealer has its head office.

(9) Every applicant for registration or renewal registration under this section shall pay the fee for broker-dealers and agents as required under RCW 21.20.340.

(10) A Canadian broker-dealer or agent registered under this section is exempt from RCW 21.20.040 through 21.20.300, and the requirements set out in this section.

(11) A Canadian broker-dealer or agent which is transacting business as a broker-dealer or agent in this state beyond what is permitted in subsection (1) or (2) must be otherwise registered under RCW 21.20.040.

#### NOTICE RE CROSS BORDER TRADING BY BROKER-DEALERS

The state securities administrator has agreed not to make inquiries of any Canadian broker-dealer concerning any possible failure to register in relation to trading activities that may have been conducted in the state without registration prior to \_\_\_\_\_, 1996. This does not preclude the state securities administrator from making inquiries where it comes to its attention that a Canadian broker-dealer may have been engaged in improper trading activities in the state in addition to failing to register.

The Canadian securities administrators have agreed not to make inquiries of any American broker-dealer on a reciprocal basis.

Alternative Two (based upon Massachusetts proposal):

#### AMENDATORY SECTION

**WAC 460-20B-020** shall be amended by adding a new subsection (5) that shall read as follows:

(5) "Broker-dealer" for the purpose of this chapter, shall exclude a person who is resident in Canada, has no office or other physical presence in this state, and complies with the following conditions: (1) only effects or attempts to effect transactions in a security exempted by RCW 21.20.320 unless otherwise expressly required by the terms of the exemption (a) with or for a person from Canada who is temporarily present in the state, with whom the Canadian person had a bona fide business-client relationship before the person entered the state; or, (b) with or for a person from Canada who is present in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor; (2) files a notice in the form of that person's current application for registration required by the jurisdiction in which that person's head office is located and a consent to service of process; (3) is a member of a self-regulatory organization or stock exchange in Canada; (4) maintains provincial or territorial registration and membership in a self-regulatory organization or stock exchange in good standing; (5) discloses to clients in this state that the person is not subject to the full regulatory requirements of the Securities Act of Washington; and (6) is not in violation of RCW 21.20.010 and all rules promulgated thereunder.

#### **WSR 96-03-118**

#### **PREPROPOSAL STATEMENT OF INQUIRY**

#### **DEPARTMENT OF**

#### **FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed January 23, 1996, 11:57 a.m.]

Subject of Possible Rule Making: Repeal of WAC 460-80-160 Franchise cross-reference sheets.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.100.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington has adopted the 1993 version of the Uniform Franchise Offering Circular (New UFOC). Cross-reference sheets are not required under

the new UFOC as the form itself requires sufficient cross-references.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Trade Commission (FTC) regulates franchises. It does not require cross-reference sheets. The other states that regulate franchises have adopted the new UFOC and do not require cross-reference sheets.

Process for Developing New Rule: Repeal is necessitated by prior adoption of new UFOC.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-119**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 11:58 a.m.]

Subject of Possible Rule Making: Repeal of WAC 460-42A-010 Employee plans.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule no longer needed and is inconsistent with the 1995 amendments to RCW 21.20.310(10).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Repeal of the rule will promote uniformity with the rules of the federal Securities and Exchange Commission (SEC).

Process for Developing New Rule: Review of rule after amendment to RCW 21.20.310(10) revealed that the rule was inconsistent with the statute and no longer necessary.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8723, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-120**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 11:59 a.m.]

Subject of Possible Rule Making: Amendments of chapter 460-17A WAC, changing the name from uniform limited offering registration (ULOR) to small corporate offering registration (SCOR) and changing the minimum price per share from \$5.00 to \$1.00.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The SCOR/ULOR program has been adopted in approximately forty states. Every other state has adopted the program under the "SCOR" name. Washington is the only state which uses "ULOR." The proposed change will make the promote uniformity with the other states. The \$5.00 per share requirement was adopted prior to the Security and Exchange Commission (SEC) rules on "penny" stocks. These rules make the \$5.00/share rule unnecessary.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal SEC regulates securities. SCOR offerings are made pursuant to an exemption from SEC registration. The proposed changes remain consistent with that exemption.

Process for Developing New Rule: The SCOR programs of other states were reviewed. It was determined that only Washington was using the ULOR terminology. SEC rules concerning penny stocks were reviewed and it was determined that the \$5.00/share minimum was not necessary.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-121**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:01 p.m.]

Subject of Possible Rule Making: Revise definitions in chapter 460-10A WAC. Delete definitions that are no longer used. Update existing definitions and add new definitions so that consistent definitions are used throughout Title 460 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Several of the current definitions in chapter 460-10A WAC are out-of-date and

need to be revised so they are consistent with definitions in other chapters of Title 460 WAC. The previous repeal of several WAC chapters has eliminated the need for several definitions. New definitions are needed to accommodate recent rule changes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: At the federal level, securities are regulated by the Securities and Exchange Commission (SEC). SEC regulations have been reviewed in an effort to promote uniformity with those regulations where possible. In addition North American Securities Administrators Association guidelines have been reviewed to promote uniformity with other states.

Process for Developing New Rule: The current definitions found in chapter 460-10A WAC were reviewed to determine which were still necessary, which needed to be amended and which should be repealed. Other chapters of Title 460 WAC were reviewed in an effort to have consistent definitions throughout the chapter.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-122**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:02 p.m.]

Subject of Possible Rule Making: To repeal the rule (WAC 460-40A-025) dealing with the limitation on selling expenses in connection with the sale of securities of an open-end investment company.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Securities and Exchange Commission (SEC) and the National Association of Securities Dealers (NASD) have in place appropriate rules dealing with the issues involved.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The NASD, under authority delegated by the federal SEC, already have rules in place dealing with load limits (selling expense). No coordination is necessary to repeal this unnecessary rule.

Process for Developing New Rule: No new rule is necessary. This is for the repeal of an unnecessary rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Securities Division of the Department of Financial Institutions with questions or comments: Kent Fie, Securities Analyst, P.O. Box 9033,

Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-123**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:03 p.m.]

Subject of Possible Rule Making: Amend WAC 460-60A-015 and 460-60A-020 to reflect 1994 statutory change increasing the threshold requirement for certain audited financial statements for securities offerings registered by coordination and qualification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.180(8), 21.20.210(14), and 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under the present rules, audited financial statements are required for securities registrations where the offering proceeds exceed \$500,000. The 1994 statutory change increased the threshold amounts to \$1 million, which lessens the burden on small issuers of securities to have audited financial statements. The amendment to the rules will make them uniform with the statutes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agency regulates this subject. The federal Securities and Exchange Commission (SEC) regulates this subject, but no rule coordination is necessary. The SEC already requires offerings registered with it to have audited statements. Offerings registering by qualification in Washington operate under the exemption from federal registration for purely intrastate offerings.

Process for Developing New Rule: Amendments are necessitated by state legislation.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-124**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:04 p.m.]

Subject of Possible Rule Making: Amending WAC 460-33A-020 (regulating mortgage paper securities offerings) to reflect 1993 statutory change moving the Securities Division to the newly created Department of Financial Institutions, and 1994 statutory change increasing the

threshold requirement for audited financial statements for offerings for securities registered by qualification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.005(1), 21.20.210(14), and 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The present rule refers to registration applications prescribed by the director of the Department of Licensing, not Financial Institutions. Also in the present rule, certain audited financial statements are required if offering proceeds will exceed \$500,000 and \$750,000. The 1994 statutory change does not require audited statements unless the offering proceeds exceed \$1,000,000 and \$5,000,000, respectively.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agency regulates this subject. The federal Securities and Exchange Commission regulates securities offerings but no rule coordination is necessary. Mortgage broker-dealers utilizing this optional method of registration by qualification operate under the exemption from federal securities registration for purely intrastate offerings.

Process for Developing New Rule: Amendments are necessitated by 1993 and 1994 state legislation.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-125**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:05 p.m.]

Subject of Possible Rule Making: Amending WAC 460-16A-125 and 460-16A-150 to delete references to rules which have been repealed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 460-16A-125(3) makes reference to WAC 460-32A-195. This rule was repealed in 1993. WAC 460-16A-150(2) makes reference to "cheap stock" and WAC 460-16A-105 and 460-16A-107. WAC 460-16A-105 was repealed in 1995 and WAC 460-16A-107 was repealed in 1988. "Cheap stock" is now an obsolete term.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other agencies regulate this subject.

Process for Developing New Rule: Amendments necessitated by repeal of other rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division,

P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-126**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:06 p.m.]

Subject of Possible Rule Making: Amend WAC 460-16A-120 to grant the securities administrator greater discretion to waive the prohibition on securities in the same offering being sold at different prices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 460-16A-120 presently provides that "no permit shall be issued" if the offering contains a price variance. The amended language would have the effect of providing greater discretion to the administrator to waive the rule if otherwise meritorious securities offerings contained provisions for price variances.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agency regulates this subject. The federal Securities and Exchange Commission has no corresponding rule on this subject.

Process for Developing New Rule: The amendment is proposed in response to a perceived need by companies seeking to raise equity capital. The division invites comment on the proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-127**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:07 p.m.]

Subject of Possible Rule Making: Amend WAC 460-16A-111 to provide greater discretion to the securities administrator to waive the requirement that officers, directors, and promoters of the issuer have invested an amount equal to at least 5% of the total equity investment resulting from the sale of the securities which are the subject of the proposed offering.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.



**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Many companies in the developmental or promotional stage which seek public equity financing do business in industries such as technology or biotechnology, where they expect to incur significant R&D or other expenses over many years before having significant revenues. Granting the administrator greater discretion would allow otherwise meritorious offerings to be granted a registration permit.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other state agency regulates this subject. The federal Securities and Exchange Commission has no corresponding rule on this subject.

**Process for Developing New Rule:** The amendment is proposed in response to a perceived need by companies seeking to raise equity capital. The division invites comment on the proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-128**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:08 p.m.]

**Subject of Possible Rule Making:** Amend WAC 460-16A-015 to reflect 1994 statutory change which provides for electronic transmission or other means as the director may prescribe for transmission of filings by issuers registering securities offerings by coordination. The amendment will include designating the Securities Registration Depository, Inc. (SRD) as the depository for issuers filing electronically with the Securities and Exchange Commission (SEC).

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 21.20.190 and 21.20.450.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Many issuers now file their offering documents electronically with the SEC, which eventually will be mandatory. The states collectively have designed SRD to coordinate with the SEC's computer system (EDGAR), providing for total electronic filing. This will improve the efficiency of file processing, while reducing mail, paper and file processing costs for both issuers and government.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other state agency regulates this subject. The federal Securities and Exchange Commission regulates how documents are filed with it. The states collectively have worked closely with the SEC to design SRD so that SRD will interface with EDGAR and provide efficient electronic filing for the issuer.

**Process for Developing New Rule:** Amendment necessitated by 1994 statutory change.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-129**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:09 p.m.]

**Subject of Possible Rule Making:** Amend WAC 460-16A-010 to reflect recodification of the Administrative Procedure Act from chapter 34.04 RCW to chapter 34.05 RCW, and amend WAC 460-16A-390 to reflect 1993 statutory change moving the Securities Division from the Department of Licensing to the Department of Financial Institutions.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 21.20.450.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** WAC 460-16A-010 now references "contested cases" as defined in RCW 34.04.010. The Administrative Procedure Act has been recodified into chapter 34.05 WAC, and the term "contested cases" has been replaced by "adjudicative proceeding." The present WAC 460-16A-390 references securities registered with the Department of Motor Vehicles. Both amendments will update rules to reflect current circumstances.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** All state agencies are subject to the Administrative Procedure Act. The purpose of the amendment is to conform the rule to the current statute.

**Process for Developing New Rule:** Amendments necessitated by statutory changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996  
John L. Bley  
Director

**WSR 96-03-130**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed January 23, 1996, 12:10 p.m.]

**Subject of Possible Rule Making:** To adopt a rule on asset-backed securities that has been adopted on October 25, 1995, by the North American Securities Administrators Association, Inc. (NASAA).

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 21.20.450.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To update Washington law to make it current with national rules regarding the registration of securities that are backed by a pool of assets. Excluded are (a) the securities of an investment company subject to the Investment Company Act of 1940 and (b) equity interests in limited partnerships or other direct investment vehicles subject to other applicable registration guidelines.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Securities and Exchange Commission (SEC) regulates securities at the federal level. NASAA solicited comments from the SEC during the drafting process.

**Process for Developing New Rule:** In an effort to promote uniformity among states, NASAA has developed a rule for asset-backed securities. The NASAA rule was developed by a NASAA committee made up of state regulators. It was circulated to all states, industry, and the SEC and then voted upon by the NASAA membership prior to adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Securities Division of the Department of Financial Institutions with questions or comments: Kent Fie, Securities Analyst, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

January 19, 1996

John L. Bley  
Director

**AMENDATORY SECTION** [(Amending WSR 95-17-068, filed 8/16/95)]

**WAC 460-16A-205 Adoption of NASAA statements of policy.** (1) In order to promote uniform regulation, the administrator adopts the following North American Securities Administrators Association (NASAA) statements of policy for offerings registering pursuant to RCW 21.20.180 or 21.20.210:

- (a) Registration of publicly offered cattle feeding programs, as adopted September 17, 1980;
- (b) Registration of commodity pool programs, as adopted with amendments through August 30, 1990;
- (c) Equipment programs, as adopted with amendments through March 29, 1992;
- (d) Registration of oil and gas programs, as adopted with amendments through March 29, 1992;

(e) Real estate investment trusts, as adopted with amendments through September 29, 1993;

(f) Real estate programs, as adopted with amendments through March 29, 1992;

(g) Loans and other material affiliated transactions, as adopted with amendments through April 25, 1993;

(h) Options and warrants, as adopted with amendments through April 25, 1993;

(i) Registration of direct participation programs - omnibus guidelines, as adopted March 29, 1992;

(j) Registration of periodic payment plans, as adopted March 29, 1992;

(k) Church bonds, as adopted April 29, 1981;

(l) Health care facility offerings, pertaining to the offering of nonprofit health care facility bonds, as adopted April 5, 1985;

(m) Investment companies investing in debt securities rated below investment grade, as adopted April 17, 1994;

(n) Registration of master fund/feeder funds, as adopted September 15, 1992;

(o) Telephone transactions, as adopted September 29, 1993; ((and))

(p) Promotional shares, as adopted September 3, 1987, except that the term promotional shares shall be limited to those equity securities which were issued within the last three years and that all promotional shares in excess of twenty-five percent of the shares to be outstanding upon completion of the offering shall be deposited in escrow absent adequate justification that escrow of such shares is not in the public interest and not necessary for the protection of investors((-); and

(q) Registration of asset-backed securities, as adopted October 25, 1995.

(2) An offering registering pursuant to RCW 21.20.180 or 21.20.210 that falls within one or more of the statements of policy listed in subsection (1) of this section must comply with the requirements of said statement of policy or policies.

(3) The statements of policy referred to in subsection (1) of this section are found in *CCH NASAA Reports* published by Commerce Clearing House. Copies are also available at the office of the securities administrator.

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

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

**WSR 96-03-138**

**PREPROPOSAL STATEMENT OF INQUIRY**  
**THE EVERGREEN STATE COLLEGE**

[Filed January 24, 1996, 8:20 a.m.]

**Subject of Possible Rule Making:** Chapter 174-120 WAC, Student conduct code—Grievance and appeals procedures.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28B.40.120(12).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Rules are to establish

minimum standards for behavior of students on campus and to provide appropriate processes to govern violations of college policy. Minor changes are suggested to current rule and new sections are necessary to meet federal requirements related to policies on hazing.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Department of Education requires adoption of policies related to hazing.

Process for Developing New Rule: In January of 1994 the vice-president for student affairs charged a task force to revise the student conduct code. The task force included three faculty, four staff, and three students. Proposed changes in the policy were posted in our campus newspaper and three open forums were held during the spring of 1994 to receive community input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: Anyone having questions or wishing to make comments can obtain a copy of the task force's recommendation from the Office of Student Affairs. Comments and questions should be submitted to Arnaldo Rodriguez, Dean of Enrollment Services, Chair Lib. 1221 x6310; or Art Costantino, Vice- President for Student Affairs, Lib. 3236 x6296.

January 23, 1996  
D. Lee Hoemann  
Executive Associate  
to President

**WSR 96-03-142**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HORSE RACING COMMISSION**  
[Filed January 24, 1996, 10:02 a.m.]

Subject of Possible Rule Making: Chapter 260-12 WAC, General rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and bring into uniformity with the national model rules to ensure consistency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, (360) 459-6462, FAX (360) 459-6461.

January 23, 1996  
Bruce Batson  
Executive Secretary

**WSR 96-03-143**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HORSE RACING COMMISSION**  
[Filed January 24, 1996, 10:03 a.m.]

Subject of Possible Rule Making: Chapter 260-20 WAC, Association grounds and facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update the entire chapter 260-20 WAC and to conform to national model rules regarding this chapter to ensure consistency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, (360) 459-6462, FAX (360) 459-6461.

January 23, 1996  
Bruce Batson  
Executive Secretary

**WSR 96-03-144**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HORSE RACING COMMISSION**  
[Filed January 24, 1996, 10:04 a.m.]

Subject of Possible Rule Making: Chapter 260-34 WAC, Drug and alcohol testing of licensees and employees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To conform to national model rules regarding this subject to ensure consistency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, (360) 459-6462, FAX (360) 459-6461.

January 23, 1996  
Bruce Batson  
Executive Secretary

**WSR 96-03-145**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HORSE RACING COMMISSION**  
[Filed January 24, 1996, 10:05 a.m.]

Subject of Possible Rule Making: Chapter 260-60 WAC, Claiming.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To conform to national model rules regarding this subject to ensure consistency.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, (360) 459-6462, FAX (360) 459-6461.

January 23, 1996  
Bruce Batson  
Executive Secretary

#### WSR 96-03-149

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 24, 1996, 10:50 a.m.]

Subject of Possible Rule Making: Public records disclosure.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish the Department of Agriculture's procedures when responding to requests for public records, explain the department's organization, the costs involved to copy documents, who the public can contact in the department.

Process for Developing New Rule: Internal process that will be developed internally.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Washington State Department of Agriculture, Dannie McQueen, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1809, FAX (360) 902-2092.

January 24, 1996  
Dannie McQueen  
Administrative Regulations Manager

#### WSR 96-03-153

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF

##### LABOR AND INDUSTRIES

[Filed January 24, 1996, 11:57 a.m.]

Subject of Possible Rule Making: Revisions to WAC 296-17-919 Retrospective Rating Plan A, A1, A2, A3, and B standard premium size ranges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.16.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The subject rule concerns the standard premium size ranges of employers enrolled in the department's optional, retrospective rating program which were amended on an emergency basis effective January 1,

1996. Amendment of this rule is made necessary to reflect the changes in premiums as a result of a twenty-seven percent rate reduction which is anticipated effective April 1, 1996. Unless the premium sizes are revised employers enrolled in the optional rating programs will be adversely impacted when adjustments are made relative to dividends and surcharges.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state, local or federal agency regulate this subject.

Process for Developing New Rule: This rule is proposed to be revised to reflect a planned twenty-seven percent rate reduction effective April 1, 1996. This rule was adopted on an emergency basis effective January 1, 1996. This filing will begin the process to adopt emergency changes on a permanent basis.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: Interested parties can participate in the decision relative to the adoption of this rule change by attending a formal public hearing to be held in early April 1996 in Tumwater at the Labor and Industries Office Building located at 7273 Linderson Way S.W.; or by submitting written comments to Kathy Willis, Program Manager, P.O. Box 44180, Olympia, WA 98504-4180, or by FAX (360) 902-4748 before March 1, 1996.

January 24, 1996  
Mark O. Brown  
Director

#### WSR 96-03-156

##### PREPROPOSAL STATEMENT OF INQUIRY LOTTERY COMMISSION

[Filed January 24, 1996, 11:42 a.m.]

Subject of Possible Rule Making: Instant game rules. Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering proposing rules for Instant Game Numbers 172, 173, 174, 175, 176 and 177, during the next six months. These rules will explain how the games function to retailers and players. Rigid validation requirements will prevent prize payment on invalid tickets. The lottery is also considering amending or repealing WAC 315-10-050 within the next six months to bring current practice in compliance with the rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeffrey Burkhardt, Rules Coordinator, at (360) 586-6583, FAX (360) 586-6586, P.O. Box 43000, Olympia, WA 98504, with any comments or questions regarding this statement of intent.

January 15, 1996  
Evelyn P. Yenson  
Director

**WSR 96-03-158****PREPROPOSAL STATEMENT OF INQUIRY  
EMPLOYMENT SECURITY DEPARTMENT**

[Filed January 24, 1996, 11:48 a.m.]

Subject of Possible Rule Making: Amending WAC 192-12-300 Mailing addresses for notice to employer and 192-12-305 Claimant responsibility for providing accurate employer address, to modify the mailing address for certain notices mailed by the department.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010 Commissioner's duties and powers, 50.12.040 Rules and regulations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, the department sends the employer notices required by RCW 50.20.150 and WAC 192-12-310 to the address provided by the claimant. However, with implementation of a new computer system (GUIDE) in May 1996, the department plans to send the notices to the employer's address on file with the department for tax purposes. This should increase the accuracy of the mailings and reduce the instances in which notices are not received by the employer or receipt is delayed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of unemployment insurance laws as long as conformity is maintained. The proposed regulations will be shared with USDOL Region X staff prior to adoption.

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 regulations.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: Persons interested in attending public meetings or participating on a workgroup may contact Juanita Myers, Employment Security Department, Unemployment Insurance Division, Policy Unit, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665 or FAX (360) 902-9799.

January 23, 1996  
Vernon E. Stoner  
Commissioner

**WSR 96-03-159****PREPROPOSAL STATEMENT OF INQUIRY  
EMPLOYMENT SECURITY DEPARTMENT**

[Filed January 24, 1996, 11:50 a.m.]

Subject of Possible Rule Making: Amending WAC 192-28-105 Recovery of benefit overpayment—Notification to individual and 192-28-120 Recovery of benefit overpayment—By repayment or offset against future benefits, to eliminate account adjustments as a method of repaying UI benefit overpayments.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010 Commissioner's duties and powers, RCW 50.12.040 Rules and regulations, 50.20.010 Benefit eligibility conditions.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current regulations permit an overpayment of UI benefits to be repaid through an account adjustment without a formal overpayment assessment. By agreeing to repayment through this method, the claimant would not receive a written overpayment notice and would authorize the department to deduct past or future benefits until the overpayment is satisfied. With implementation of a new computer system (GUIDE) in May 1996, informal account adjustments will no longer be possible because GUIDE acts as an accounting system. A formal determination notice and overpayment assessment will be issued to the claimant whenever an overpayment exists.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of unemployment insurance laws as long as conformity is maintained. The proposed regulations will be shared with USDOL Region X staff prior to adoption.

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 regulations.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: Persons interested in attending public meetings or participating on a workgroup may contact Juanita Myers, Employment Security Department, Unemployment Insurance Division, Policy Unit, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665 or FAX (360) 902-9799.

January 23, 1996  
Vernon E. Stoner  
Commissioner

**WSR 96-03-160****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

(Board of Physical Therapy)

[Filed January 24, 1996, 11:53 a.m.]

Subject of Possible Rule Making: National physical therapist examination passing score.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.74.023.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The national physical therapist exam passing score has been changed to criterion referenced scoring. This change will allow qualified therapists to obtain licensure in Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Newsletters, correspondence, public meetings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carol Neva, Program Manager, Department of Health, Board of Physical Therapy, P.O. Box

**WSR 96-03-160**

**Washington State Register, Issue 96-03**

47868, Olympia, WA 98504-7868, phone (360) 753-3132,  
FAX (360) 753-0657.

January 18, 1996  
Carol Neva  
Physical Therapy  
Board Program Manager

**WSR 96-03-013**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed January 5, 1996, 1:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-010.

Title of Rule: WAC 388-49-020 Definitions.

Purpose: To revise the definition of recent work history.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Revises the definition of recent work history so that earned income must not only have been received but are worked for in the two months prior to application.

Reasons Supporting Proposal: This revision conforms methodology to ACES processing requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, (360) 438-8325.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule changes the definition of recent work history so that it conforms with ACES case processing requirements

Proposal Changes the Following Existing Rules: Changes the definition of recent work history so that earned income must not only have been received but also worked for in the two months prior to application.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small business; it only affects food stamp recipients.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 does not apply to the Department of Social and Health Services.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on February 29, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 15, 1996, TDD (360) 753-0625, or (SCAN) 753-0625.

Submit Written Comments to: Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, Identify WAC Numbers, FAX (360) 664-0118, by February 22, 1996.

Date of Intended Adoption: February 29, 1996.

January 5, 1996

Merry Kogut, Supervisor  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3894, filed 9/7/95, effective 10/6/95)

**WAC 388-49-020 Definitions.** (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) Department failure to timely implement an intentional program violation disqualification; or

(c) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), or (c) who is a person:

(a) Paying reasonable compensation to the household for lodging and meals; or

(b) In foster care.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

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

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member

to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving:

(i) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(ii) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and:

(i) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(ii) Has a disability considered permanent under section 221(i) of the Social Security Act.

(f) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means:

(a) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(b) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(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 utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting which:

(a) Serves not more than sixteen blind or disabled residents as defined under WAC 388-49-020(19); and

(b) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means the person designated by the household to be named on the case file, identification card, and FCA card.

(35) "Household employment representative" means:

(a) The household member selected as the head of household for employment and training purposes and voluntary quit provisions. Selection is limited to households with:

(i) An adult parent of children, of any age, living in the household; or

(ii) An adult who has parental control over children, under eighteen years of age, living in the household; or

(b) The principal wage earner if no selection is made by the household, or the household is not entitled to make a selection.

(36) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(37) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing or coming out of institutionalization;



(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(38) "Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of income assistance (DIA) and authorized by food and ~~((nutrition))~~ consumer service ~~((FNS))~~ (FCS).

(39) "Household" means the basic client unit in the food stamp program.

(40) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(41) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(42) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(43) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien; or

(e) Failure to sign the application attesting to the member's citizenship or alien status.

(44) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(45) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(46) "Intentional program violation" means intentionally:

(a) Making a false or misleading statement;

(b) Misrepresenting, concealing, or withholding facts; or

(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

(47) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(48) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(49) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

(50) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(51) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(52) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(53) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(a) Roomer;

(b) Live-in attendant;

(c) Ineligible student; or

(d) Person who does not purchase and prepare meals with the food stamp household except for persons described under WAC 388-49-190(2).

(54) "Nonstriker" means any person:

(a) Exempt from work registration the day before the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(55) "Offset" means reduce restored benefits by any overissuance (claim) owed by the household to the department.

(56) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(57) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(58) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(59) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(60) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(61) "Principal wage earner" means the household member with the greatest source of earned income in the two months prior to the month of violation of employment and training and voluntary quit provisions, including members not required to register.

(62) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(63) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(64) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(65) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(66) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(67) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(68) "Recent work history" means ~~((receipt of))~~ being employed and receiving earned income in one of the two months prior to the payment month.

(69) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(70) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(71) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(72) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(73) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(74) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(75) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(76) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(77) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

(78) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an

alien as a condition of the alien's admission into the United States as a permanent resident.

(79) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

(80) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(81) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(82) "Student" means any person:

(a) At least eighteen but less than fifty years of age;

(b) Physically and mentally fit for employment; and

(c) Enrolled at least half time in an institution of higher education.

(83) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(84) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(85) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(86) "Under parental control" means living with any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-250-1400(2);

(c) Married and living with a spouse; or

(d) Living with the person's own child.

(87) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(88) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(89) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

**WSR 96-03-024**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 8, 1996, 11:16 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-10-047, 95-23-065, 95-23-066, 95-23-067, 95-23-068, and 95-23-079.

**Title of Rule:** Lead; carcinogens; 1,2-dibromo-3-chloropropane; respiratory protection; saccharin fit testing; personal protective equipment; crane and derrick suspended (work) platforms.

**Purpose:** Chapter 296-24 WAC, General safety and health standards, federal-initiated proposed amendments, related to crane and derrick suspended personnel (work) platforms, in WAC 296-24-23533 are made as a result of OSHA letter dated April 26, 1995, which identified this section as not at-least-as-effective-as the federal standard. The amendments are proposed to be identical to the federal standard and add the following requirements:

Cranes and derricks with variable angle booms must be equipped with a boom angle indicator which is visible to the operator.

Cranes with telescoping booms must be equipped with a device to indicate the load radius to the operator at all times.

A limit switch or a hoisting action deactivation system must be used to prevent two-blocking of the load line.

Federal-initiated proposed amendments related to personal protective equipment are made as a result of OSHA letter dated March 20, 1995, which identified this standard as not at-least-as-effective-as the federal standard. The amendments are proposed to be identical to the federal standard and are made to:

Change "and" to "or" in WAC 296-24-084 Occupational head protection. The corrected sentence reads, "...where there is a potential for injury to the head from falling or flying objects."

Add a footnote after Table A-6, Rubber insulating equipment test intervals, in WAC 296-24-092 Electrical protective equipment, to require insulating equipment not be placed into service unless it has been electrically tested within the previous twelve months.

State-initiated proposed amendments to chapter 296-24 WAC are made to renumber subsections as a result of the proposed federal-initiated amendments.

Chapter 296-62 WAC, General occupational health standards, federal-initiated proposed amendments related to carcinogens, in WAC 296-62-07306, are made as a result of OSHA letters dated September 20, 1994, and May 16, 1995, which identified this section as not at-least-as-effective-as the federal standard. The amendments are proposed to be identical to the federal standard and are made to:

Correct a WAC reference in WAC 296-62-07306 (2)(c) from WAC 296-62-07304 (2)(1) to WAC 296-62-07304(12).

Require a full face supplied air respirator for five specifically identified carcinogens.

Require a half-face filter type respirator for nine specifically identified carcinogens.

Add a respiratory protective equipment reference to chapter 296-62 WAC.

Federal-initiated proposed amendments related to lead, in WAC 296-62-07521, are made as a result of Federal Register Volume 60, Number 196, dated October 11, 1995. These amendments are made to be identical to the federal standard. These amendments are made to:

Delete expired implementation dates listed in Table 1 and amend items referencing these implementation dates.

Add future implementation dates to Table 1.

Delete a subsection relating to bypass of interim level.

Amend WAC 296-62-07521(12) to delete obsolete information related to implementation phases of the standard and incorrect PEL limits.

Amend appendix text to be consistent with the standard text. (The standard currently "requires" - and the appendix currently "strongly recommends" - ZPP blood tests for employees who have been overexposed and are taking monthly follow-up blood tests.)

Update WAC references to reflect amended section numbering.

Federal-initiated proposed amendments related to 1,2-dibromo-3-chloropropane (DBCP) in WAC 296-62-07342 are made as a result of OSHA letter dated May 16, 1995, which identified this standard as not at-least-as-effective-as the federal standard. The amendments are proposed to be identical or at-least-as-effective-as the federal standard. These amendments are made to:

Require clean change rooms and separate storage for street clothes, protective clothing, and equipment.

Require employers to have all employees in regulated areas to shower at the end of each workshift.

Require employees [employers] to have employees immediately wash off any skin contamination (with DBCP).

Require employers with employees handling DBCP to provide a readily available lunchroom which meets specified environmental requirements.

Require potentially contaminated clothing be removed and hands and face be washed prior to eating after working in a DBCP regulated work area.

Prohibit specified activities in regulated work areas, such as eating, drinking, and smoking.

Require annual medical exams for all employees in regulated work areas as well as a supplemental exam when expose [exposure] actually occurs.

State-initiated proposed amendments to chapter 296-62 WAC are made to:

Correct errors in the solution mix formula numbers used for saccharin fit testing of cadmium, lead, asbestos, benzene, formaldehyde, and methylene dianiline.

Move a subsection for better organization of information.

Correct a typographical error in a title.

Renumber subsections as a result of the proposed federal-initiated amendments.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: [Department of Labor and Industries], governmental.

Rule is necessary because of federal law, Federal Register Volume 60, Number 196, dated October 11, 1995. OSHA letters dated September 20, 1994, March 20, 1995, April 26, 1995, and May 16, 1995.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not necessary when rules are proposed for adoption solely for the purpose of conforming and complying with federal regulations (RCW 19.85.061). The department is proposing to amend these rules to comply with the Washington Industrial Safety and Health Act (chapter 49.17 RCW) which requires the department to be at-least-as-effective-as the standards adopted or recognized by the United States secretary of labor under the authority of the Occupational Safety and Health Act (OSHA) of 1970. The department is proposing to amend rules relating to lead; carcinogens; 1,2-dibromo-3-chloropropane; saccharin fit testing; personal protective equipment; and cranes and derrick suspended platforms to be at-least-as-effective-as the adopted federal standards as published in Federal Register Volume 60, Number 196, dated October 11, 1995, as well as OSHA letters dated September 20, 1994, March 20, 1995, April 26, 1995, and May 16, 1995, which identified the applicable state standards as not at-least-as-effective-as the federal standards.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (4)(b)(iii) and (iv). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on February 29, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by February 12, 1996, (360) 902-5516.

Submit Written Comments to: Frank Leuck, Assistant Director, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620 by 5:00 p.m. on March 7, 1996.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529.

Comments submitted by FAX must be ten pages or less. Faxed comments (like written comments) must be received no later than 5:00 p.m. on March 7, 1996.

Date of Intended Adoption: April 10, 1996.

January 8, 1996

Mark O. Brown  
Director

**AMENDATORY SECTION** (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

**WAC 296-24-084 Occupational head protection.** (1) General requirements.

(a) Each affected employee shall wear protective helmets when working in areas where there is a potential for injury to the head from falling ((and)) or flying objects.

(b) Protective helmets designed to reduce electrical shock hazard shall be worn by each such affected employee when near exposed electrical conductors which could contact the head.

(2) Criteria for protective helmets.

(a) Protective helmets purchased after February 20, 1995, shall comply with ANSI Z89.1-1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," which is incorporated by reference, or shall be demonstrated to be equally effective.

(b) Protective helmets purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Safety Requirements for Industrial Head Protection," ANSI Z89.1-1969, or shall be demonstrated by the employer to be equally effective.

(3) Persons working in the shops around machinery or in locations which present a hair catching or fire hazard shall wear caps or other type of head covering which completely covers the hair. Caps with metal buttons or metal visors shall not be worn around electrical hazards.

Note 1: The following will define hair lengths considered hazardous:

(a) When the length would exceed the circumference of exposed revolving shafts or tools in fixed machines by 200 percent.

(b) When the length would exceed the radius of pressure rolls with exposed in-running nip points.

(c) When the employee is exposed to an ignition source and the employee may, with hair aflame, run into an area containing class -1 flammable liquids or combustible atmospheres.

(d) When exposures require personal protective devices, such as mask-type respirators or ear-cup-type hearing protection devices, and hair, either facial or head, would interfere with a proper seal.

Note 2: When hair length is judged hazardous from a hair catching standpoint (instances (a) or (b) under interpretations in Note 1) minimal confinement shall be within netting which controls all loose ends.

Note 3: If hazardous from fire hazard aspects (instance (c) of Note 1) the hair must be confined within a solid-type material.

(4) Protective helmets shall be worn by employees who work around or under scaffolds or other overhead structures, or who are otherwise exposed to the hazards of falling materials and propelled objects.

**AMENDATORY SECTION** (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

**WAC 296-24-092 Electrical protective equipment.**

(1) Design requirements. Insulating blankets, matting, covers, line hose, gloves, and sleeves made of rubber shall meet the following requirements:

- (a) Manufacture and marking.
  - (i) Blankets, gloves, and sleeves shall be produced by a seamless process.
  - (ii) Each item shall be clearly marked as follows:
    - (A) Class 0 equipment shall be marked Class 0.
    - (B) Class 1 equipment shall be marked Class 1.
    - (C) Class 2 equipment shall be marked Class 2.
    - (D) Class 3 equipment shall be marked Class 3.
    - (E) Class 4 equipment shall be marked Class 4.
    - (F) Nonozone-resistant equipment other than matting shall be marked Type I.
    - (G) Ozone-resistant equipment other than matting shall be marked Type II.
    - (H) Other relevant markings, such as the manufacturer's identification and the size of the equipment, may also be provided.
  - (iii) Markings shall be nonconducting and shall be applied in such a manner as not to impair the insulating qualities of the equipment.
  - (iv) Markings on gloves shall be confined to the cuff portion of the glove.
    - (b) Electrical requirements.
      - (i) Equipment shall be capable of withstanding the a-c proof-test voltage specified in Table A-2 or the d-c proof-test voltage specified in Table A-3.
        - (A) The proof-test shall reliably indicate that the equipment can withstand the voltage involved.
        - (B) The test voltage shall be applied continuously for three minutes for equipment other than matting and shall be applied continuously for one minute for matting.
        - (C) Gloves shall also be capable of withstanding the a-c proof-test voltage specified in Table A-2 after a sixteen-hour water soak. (See the note following (c)(ii)(B) of this subsection.)
          - (ii) When the a-c proof-test is used on gloves, the 60 hertz proof-test current may not exceed the values specified in Table A-2 at any time during the test period.
            - (A) If the a-c proof-test is made at a frequency other than 60 hertz, the permissible proof-test current shall be computed from the direct ratio of the frequencies.
            - (B) For the test, gloves (right side out) shall be filled with tap water and immersed in water to a depth that is in accordance with Table A-4. Water shall be added to or removed from the glove, as necessary, so that the water level is the same inside and outside the glove.
            - (C) After the sixteen-hour water soak specified in (b)(i)(C) of this subsection, the 60-hertz proof-test current may exceed the values given in Table A-2 by not more than 2 milliamperes.
            - (iii) Equipment that has been subjected to a minimum breakdown voltage test may not be used for electrical protection. (See the note following (c)(ii)(B) of this subsection.)
            - (iv) Material used for Type II insulating equipment shall be capable of withstanding an ozone test, with no visible effects. The ozone test shall reliably indicate that the material will resist ozone exposure in actual use. Any visible signs of ozone deterioration of the material, such as checking, cracking, breaks, or pitting, is evidence of failure to meet the requirements for ozone-resistant material. (See the note following (c)(ii)(B) of this subsection.)

(c) Workmanship and finish.

(i) Equipment shall be free of harmful physical irregularities that can be detected by the tests or inspections required under this section.

(ii) Surface irregularities that may be present on all rubber goods because of imperfections on forms or molds or because of inherent difficulties in the manufacturing process and that may appear as indentations, protuberances, or imbedded foreign material are acceptable under the following conditions:

(A) The indentation or protuberance blends into a smooth slope when the material is stretched.

(B) Foreign material remains in place when the insulating material is folded and stretches with the insulating material surrounding it.

Note: Rubber insulating equipment meeting the following national consensus standards is deemed to be in compliance with subsection (1) of this section:

American Society for Testing and Materials (ASTM) D 120-87, Specification for Rubber Insulating Gloves.

ASTM D 178-93, Specification for Rubber Insulating Matting.

ASTM D 1048-93, Specification for Rubber Insulating Blankets.

ASTM D 1049-93, Specification for Rubber Insulating Covers.

ASTM D 1050-90, Specification for Rubber Insulating Line Hose.

ASTM D 1051-87, Specification for Rubber Insulating Sleeves.

These standards contain specifications for conducting the various tests required in subsection (1) of this section. For example, the a-c and d-c proof-tests, the breakdown test, the water soak procedure, and the ozone test mentioned in this paragraph are described in detail in the ASTM standards.

(2) In-service care and use.

(a) Electrical protective equipment shall be maintained in a safe, reliable condition.

(b) The following specific requirements apply to insulating blankets, covers, line hose, gloves, and sleeves made of rubber:

(i) Maximum use voltages shall conform to those listed in Table A-5.

(ii) Insulating equipment shall be inspected for damage before each day's use and immediately following any incident that can reasonably be suspected of having caused damage. Insulating gloves shall be given an air test, along with the inspection.

(iii) Insulating equipment with any of the following defects may not be used:

(A) A hole, tear, puncture, or cut;

(B) Ozone cutting or ozone checking (the cutting action produced by ozone on rubber under mechanical stress into a series of interlacing cracks);

(C) An embedded foreign object;

(D) Any of the following texture changes: Swelling, softening, hardening, or becoming sticky or inelastic.

(E) Any other defect that damages the insulating properties.

(iv) Insulating equipment found to have other defects that might affect its insulating properties shall be removed from service and returned for testing under (b)(viii)(ix) of this subsection.

(v) Insulating equipment shall be cleaned as needed to remove foreign substances.

(vi) Insulating equipment shall be stored in such a location and in such a manner as to protect it from light, temperature extremes, excessive humidity, ozone, and other injurious substances and conditions.

(vii) Protector gloves shall be worn over insulating gloves.

(viii) Electrical protective equipment shall be subjected to periodic electrical tests. Test voltages and the maximum intervals between tests shall be in accordance with Table A-5 and Table A-6.

(ix) The test method used under (b)(viii) and (xi) of this subsection shall reliably indicate whether the insulating equipment can withstand the voltages involved.

Note: Standard electrical test methods considered as meeting this requirement are given in the following national consensus standards:

- American Society for Testing and Materials (ASTM) D 120-87, Specification for Rubber Insulating Gloves.
- ASTM D 1048-93, Specification for Rubber Insulating Blankets.
- ASTM D 1049-93, Specification for Rubber Insulating Covers.
- ASTM D 1050-90, Specification for Rubber Insulating Line Hose.
- ASTM D 1051-87, Specification for Rubber Insulating Sleeves.
- ASTM F 478-92, Specification for In-Service Care of Insulating Line Hose and Covers.
- ASTM F 479-88a, Specification for In-Service Care of Insulating Blankets.
- ASTM F 496-93b, Specification for In-Service Care of Insulating Gloves and Sleeves.

(x) Insulating equipment failing to pass inspections or electrical tests shall not be used by employees, except as follows:

(A) Rubber insulating line hose could be used in shorter lengths with the defective portion cut off.

(B) Rubber insulating blankets could be repaired using a compatible patch that results in physical and electrical properties equal to those of the blanket.

(C) Rubber insulating blankets could be salvaged by severing the defective area from the undamaged portion of the blanket. The resulting undamaged area shall not be smaller than twenty-two inches by twenty-two inches (560 mm by 560 mm) for Class 1, 2, 3, and 4 blankets.

(xi) Repaired insulating equipment shall be retested before it may be used by employees.

(xii) The employer shall certify that equipment has been tested in accordance with the requirements of (b)(viii), (ix), and (xi) of this subsection. The certification shall identify the equipment that passed the test and the date it was tested.

Note: Marking of equipment and entering the results of the tests and the dates of testing onto logs are two acceptable means of meeting this requirement.

Table A-2. -A-C Proof-Test Requirements  
Maximum proof-test current, mA (gloves only)

Class of equipment	Proof-test voltage rms V	267-mm (10.5-in) glove	356-mm (14-in) glove	406-mm (16-in) glove	457-mm (18-in) glove
0	5,000	8	12	14	16
1	10,000		14	16	18
2	20,000		16	18	20
3	30,000		18	20	22
4	40,000			22	24

Table A-3.-D-C Proof-Test Requirements

Class of equipment	Proof-test voltage
0	20,000
1	40,000
2	50,000
3	60,000
4	70,000

Note: The d-c voltages listed in this table are not appropriate for proof testing rubber insulating line hose or covers. For this equipment, d-c proof-tests shall use a voltage high enough to indicate that the equipment can be safely used at the voltages listed in Table A-4. See ASTM D 1050-90 and ASTM D 1049-88 for further information on proof tests for rubber insulating line hose and covers.

Table A-4.-Glove Tests-Water Level<sup>1, 2</sup>

Class of glove	A-C proof-test		D-C proof-test	
	mm.	in.	mm.	in.
0	38	1.5	38	1.5
1	38	1.5	51	2.0
2	64	2.5	76	3.0
3	89	3.5	102	4.0
4	127	5.0	153	6.0

<sup>1</sup>The water level is given as the clearance from the cuff of the glove to the water line, with a tolerance of 13 mm. (0.5 in.).

<sup>2</sup>If atmospheric conditions make the specified clearances impractical, the clearances may be increased by a maximum of 25 mm. (1 in.).

Table A-5.-Rubber Insulating Equipment Voltage Requirements

Class of equipment	Maximum use voltage <sup>1</sup> a-c-rms	Retest voltage <sup>2</sup> a-c-rms	Retest voltage <sup>2</sup> d-c-rms
0	1,000	5,000	20,000
1	7,500	10,000	40,000
2	17,000	20,000	50,000
3	26,500	30,000	60,000
4	36,000	40,000	70,000

Note: Rubber gloves shall only be used on voltages of 5000 volts phase to phase or less.

<sup>1</sup>The maximum use voltage is the a-c voltage (rms) classification of the protective equipment that designates the maximum nominal design/voltage of the energized system that may be safely worked. The nominal design voltage is equal to the phase-to-phase voltage on multiphase circuits. However, the phase-to-ground potential is considered to be the nominal design/voltage:

1. If there is no multiphase exposure in a system area and if the voltage exposure is limited to the phase-to-ground potential, or

2. If the electrical equipment and devices are insulated or isolated or both so that the multiphase exposure on a grounded wye circuit is removed.

<sup>2</sup>The proof-test voltage shall be applied continuously for at least one minute, but no more than three minutes.

Table A-6.-Rubber Insulating Equipment Test Intervals

Type of equipment	When to test
Rubber insulating line hose	Upon indication that insulating value is suspect.
Rubber insulating covers	Upon indication that insulating value is suspect.

PROPOSED

Rubber insulating blankets	Before first issue and every 12 months thereafter. <sup>1</sup>
Rubber insulating gloves	Before first issue and every 6 months thereafter. <sup>1</sup>
Rubber insulating sleeves	Before first issue and every 12 months thereafter. <sup>1</sup>

<sup>1</sup> If the insulating equipment has been electrically tested but not issued for service, it may not be placed into service unless it has been electrically tested within the previous 12 months.

(3) Where switches or fuses of more than 150 volts to ground are not guarded during ordinary operations, suitable insulating floors, mats or platforms shall be provided on which the operator must stand while handling the switches.

**AMENDATORY SECTION** (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

**WAC 296-24-23533 Crane and derrick suspended personnel (work) platforms.** (1) Scope and application. This standard applies to the design, construction, testing, use and maintenance of personnel platforms, and the hoisting of personnel platforms on the load lines of cranes or derricks.

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

(a) "Failure" means load refusal, breakage, or separation of components.

(b) "Hoist" (or hoisting) means all crane or derrick functions such as lowering, lifting, swinging, booming in and out or up and down, or suspending a personnel platform.

(c) "Load refusal" means the point where the ultimate strength is exceeded.

(d) "Maximum intended load" means the total load of all employees tools, materials, and other loads reasonably anticipated to be applied to a personnel platform or personnel platform component at any one time.

(e) "Runway" means a firm, level surface designed, prepared, and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.

(3) General requirements. The use of a crane or derrick to hoist employees on a personnel platform is prohibited, except when the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform or scaffold, would be more hazardous, or is not possible because of structural design or worksite conditions.

(4) Operational criteria.

(a) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner with no sudden movements of the crane or derrick, or the platform.

(b) Load lines shall be capable of supporting, without failure, at least seven times the maximum intended load, except that where rotation resistant rope is used, the lines shall be capable of supporting without failure, at least ten times the maximum intended load. The required design factor is achieved by taking the current safety factor of 3.5 and applying the fifty percent derating of the crane capacity.

(c) Load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs shall be engaged when the occupied personnel platform is in a stationary working position.

(d) Cranes and derricks with variable angle booms shall be equipped with a boom angle indicator, readily visible to the operator.

(e) Cranes with telescoping booms shall be equipped with a device to indicate clearly to the operator, at all times, the boom's extended length, or an accurate determination of the load radius to be used during the lift shall be made prior to hoisting personnel.

(f) A positive acting device shall be used which prevents contact between the load block or overhaul ball and the boom tip (anti-two-blocking device), or a system shall be used which deactivates the hoisting action before damage occurs in the event of a two-blocking situation (two block damage prevention feature).

(g) The load line hoist drum shall have a system or device on the power train, other than the load hoist brake, which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited.

~~((e))~~ (h) The crane shall be uniformly level within one percent of level grade and located on firm footing. Cranes equipped with outriggers shall have them all fully deployed following manufacturer's specifications, insofar as applicable, when hoisting employees.

~~((f))~~ (i) The total weight of the loaded personnel platform and related rigging shall not exceed fifty percent of the rated capacity for the radius and configuration of the crane or derrick.

~~((g))~~ (j) The use of machines having live booms (booms in which lowering is controlled by a brake without aid from other devices which slow the lowering speeds) is prohibited.

~~((h))~~ (k) Multiple-part line block: When a multiple-part line block is in use, a substantial strap shall be used between the crane hook and common ring, shackle, or other equivalent device, to eliminate employee exposure to the lines running through the block, and to the block itself.

(5) Rigging.

(a) Lifting bridles on box-type platforms shall consist of four legs of equal length, with one end securely shackled to each corner of the platform and the other end securely attached to a common ring, shackle, or other equivalent device to accommodate the crane hook, or a strap to the crane hook.

(b) Shackle bolts used for rigging of personnel platforms shall be secured against displacement.

(c) A substantial safety line shall pass through the eye of each leg of the bridle adjacent to the common ring, shackle, or equivalent device and be securely fastened with a minimum amount of slack to the lift line above the headache ball or to the crane hook itself.

(d) All eyes in wire rope sling shall be fabricated with thimbles.

(e) Wire rope, shackles, rings, master links, and other rigging hardware must be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant wire rope is used for slings, they shall be capable

of supporting without failure at least ten times the maximum intended load.

(f) Hooks on headache ball assemblies, lower load blocks, or other attachment assemblies shall be of a type that can be closed and locked, eliminating the hook throat opening. Alternatively, an alloy anchor type shackle with a bolt, nut, and retaining pin shall be used.

(g) Bridles and associated rigging for attaching the personnel platform to the hoist line shall be used only for the platform and the necessary employees, their tools and the materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.

(6) Personnel platforms - design criteria.

(a) The personnel platform and suspension system shall be designed by a qualified engineer or a qualified person competent in structural design.

(b) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(c) The personnel platform itself, except the guardrail system and body belt/harness anchorages, shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load based on a minimum allowance of five hundred pounds for the first person with light tools, and an additional two hundred fifty pounds for each additional person.

(d) Criteria for guardrail systems and body belt/harness anchorages are contained in WAC 296-24-75007 and 296-24-82503(31) respectively.

(e) The personnel platform shall be conspicuously posted with a plate or other permanent marking which indicates the weight of the platform and its rated load capacity or maximum intended load.

(7) Platform specifications.

(a) Each personnel platform shall be equipped with a guardrail system which meets the requirements of WAC 296-24-75007, and shall be enclosed at least from the toeboard to mid-rail with either solid construction or expanded metal having openings no greater than one-half inch (1.27cm).

(b) A grab rail shall be installed inside the entire perimeter of the personnel platform.

(c) Access gates, if installed, shall not swing outward during hoisting.

(d) Access gates, including sliding or folding gates, shall be equipped with a restraining device to prevent accidental opening.

(e) Headroom shall be provided which allows employees to stand upright in the platform.

(f) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects.

(g) All rough edges exposed to contact by employees shall be surfaced or smoothed in order to prevent injury to employees from punctures or lacerations.

(h) All welding of the personnel platform and its components shall be performed by a qualified welder familiar with the weld grades, types, and material specified in the platform design.

(i) Occupants of all personnel platforms shall wear a safety belt or harness and lanyard which meets the requirements of ANSI A10.14-1975.

(j) Box-type platform: The workers lanyard shall be secured to the work platform or guardrail of the work platform.

(k) Rescue platform:

(i) If the platform is used as a rescue vehicle, the injured worker shall be strapped into the stretcher or basket.

(ii) The basket shall then be secured by lanyard to an anchorage within the platform.

(l) Boatswains chair: The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(m) Barrel-type platform:

(i) The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(ii) A solid bar or rod shall be substantially attached in a rigid position to the bottom or side of the platform.

(iii) The side bar or rod shall extend a minimum of eight feet above the floor of the work platform.

(iv) The bottom of the barrel-type platform shall be of a convex shape to cause the platform to lay on its side when lowered to the ground or floor.

(v) Workers shall enter and exit from barrel-type platforms only when they are in an upright position, stable, and securely attached to the load line.

(vi) The employer shall use methods or devices which allow employees to safely enter or exit barrel-type platforms.

(8) Personnel platform loading.

(a) The personnel platform shall not be loaded in excess of its rated load capacity.

(b) The number of employees occupying the personnel platform shall not exceed the number required for the work being performed.

(c) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work, and shall not be used to hoist only materials or tools when not hoisting personnel.

(d) Materials and tools for use during a personnel lift shall be secured to prevent displacement.

(e) Materials and tools for use during a personnel lift shall be evenly distributed within the confines of the platform while the platform is suspended.

(9) Trial lift, inspection, and prooftesting.

(a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated lightweight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the personnel platform is to be hoisted and positioned. This trial lift shall be performed immediately prior to placing personnel on the platform. The operator shall determine that all systems, controls, and safety devices are activated and functioning properly; that no interferences exist; and that all configurations necessary to reach those work locations will allow the operator to remain under the fifty percent limit of the hoist's rated capacity. Materials and tools to be used during the actual lift can be loaded in the platform, as provided in subsection (8)(d) and (e) of this section for the trial lift. A single trial lift may be performed at one time for all locations that are to be reached from a single set-up position.

(b) The trial lift shall be repeated prior to hoisting employees whenever the crane or derrick is moved and set up in a new location or returned to a previously used



location. Additionally, the trial lift shall be repeated when the lift route is changed unless the operator determines that the route change is not significant (i.e., the route change would not affect the safety of hoisted employees).

(c) After the trial lift, and just prior to hoisting personnel, the platform shall be hoisted a few inches and inspected to ensure that it is secure and properly balanced. Employees shall not be hoisted unless the following conditions are determined to exist:

(i) Hoist ropes shall be free of kinks;

(ii) Multiple part lines shall not be twisted around each other;

(iii) The primary attachment shall be centered over the platform; and

(iv) The hoisting system shall be inspected if the load rope is slack to ensure all ropes are properly stated on drums and in sheaves.

(d) A visual inspection of the crane or derrick, rigging, personnel platform, and the crane or derrick base support or ground shall be conducted by a competent person immediately after the trial lift to determine whether the testing has exposed any defect or produced any adverse effect upon any component or structure.

(e) Any defects found during inspections which create a safety hazard shall be corrected before hoisting personnel.

(f) At each job site, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be prooftested to one hundred twenty-five percent of the platform's rated capacity by holding it in a suspended position for five minutes with the test load evenly distributed on the platform (this may be done concurrently with the trial lift). After prooftesting, a competent person shall inspect the platform and rigging. Any deficiencies found shall be corrected and another prooftest shall be conducted. Personnel hoisting shall not be conducted until the prooftesting requirements are satisfied.

(g) The employer shall retain at the jobsite and produce when requested, documentation such as lift capacity information, verifying that the requirements of this standard have been met.

(10) Work practices.

(a) Employees shall keep all parts of the body inside the platform during raising, lowering, and positioning. This provision does not apply to an occupant of the platform performing the duties of a signal person.

(b) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure creates an unsafe situation.

(c) Tag lines shall be used unless their use creates an unsafe condition.

(d) The crane or derrick operator shall remain at the controls at all times when the crane engine is running and the platform is occupied.

(e) Hoisting of employees shall be promptly discontinued upon indication of any dangerous weather conditions or other impending danger.

(f) Employees being hoisted shall remain in continuous sight of and in direct communication with the operator or signal person. In those situations where direct visual contact with the operator is not possible, and the use of a signal

person would create a greater hazard for that person, direct communication alone such as by radio may be used.

(g) Hand signals to the operator shall be in accordance with those prescribed by the applicable ANSI standard for the type of crane or lift in use unless voice communication equipment is utilized. Signals shall be discernable or audible at all times.

(h) Except over water, employees occupying the personnel platform shall use a body belt/harness system with lanyard appropriately attached to the lower load block or overhaul ball, or to a structural member within the personnel platform capable of supporting a fall impact for employees using the anchorage.

(i) No lifts shall be made on another of the crane's or derrick's load lines while personnel are suspended on a platform.

(11) Traveling.

(a) Hoisting of employees while the crane is traveling is prohibited except for portal, tower and locomotive cranes, or where the employer demonstrates that there is no less hazardous way to perform the work.

(b) Under any circumstances where a crane would travel while hoisting personnel, the employer shall implement the following procedures to safeguard employees:

(i) Crane travel shall be restricted to a fixed track or runway;

(ii) Travel shall be limited to the load radius of the boom used during the lift; and

(iii) The boom must be parallel to the direction of travel.

(c) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by subsection (9)(a) of this section which tests the route of the lift.

(d) If travel is done with a rubber tired-carrier, the condition and air pressure of the tires shall be checked. The chart capacity for lifts on rubber shall be used for application of the fifty percent reduction of rated capacity. Notwithstanding subsection (4)(~~(f)~~) (i) of this section, outriggers may be partially retracted as necessary for travel.

(12) Prelift meeting.

(a) A meeting attended by the crane or derrick operator, signal person(s) (if necessary for the lift), employee(s) to be lifted, and the person responsible for the task to be performed shall be held to review the appropriate requirements of this section and the procedures to be followed.

(b) This meeting shall be held prior to the trial lift at each new location, and shall be repeated for any employees newly assigned to the operation.

#### AMENDATORY SECTION (Amending Order 86-28, filed 7/25/86)

**WAC 296-62-07306 Requirements for areas containing carcinogens listed in WAC 296-62-07302.** (1) A regulated area shall be established by an employer where listed carcinogens are manufactured, processed, used, repackaged, released, handled or stored.

(2) All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(a) Isolated systems. Employees working with carcinogens within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas where carcinogens are stored in sealed containers, or contained in a closed system including piping systems with any sample ports or openings closed while carcinogens are contained within:

(i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations as defined in WAC 296-62-07304 ~~((2)(H))~~ (12) are prohibited.

(d) Transfer from a closed system. Charging or discharging point operations, or otherwise opening a closed system. In operations involving "laboratory-type hoods," or in locations where a carcinogen is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this section shall apply.

(i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) ~~Employees engaged in ((a carcinogen handling operation shall be provided with and required to wear and use respiratory protection in accordance with chapter 296-62 WAC, of the general safety and health standards))~~ operations handling the following carcinogens shall be provided with and required to wear and use a full-face, supplied-air respirator, of the continuous flow or pressure-demand type in accordance with WAC 296-62-071:

Methyl Chloromethyl Ether;  
bis-Chloromethyl Ether;  
Ethylenimine;  
beta-Propiolactone;  
4-Amino Diphenyl.

(v) Employees engaged in operations handling the following carcinogens shall be provided with and required to wear and use (not less than) a half-face, filter-type respirator for dusts, mists, and fumes in accordance with WAC 296-62-071:

4-Nitrobiphenyl; Alpha-Naphthylamine; 4,4'Methylene bis (2-Chloroaniline); 3,3'Dichlorobenzidine (and its salts); Beta-Naphthylamine; Benzidine; 2-Acetylamino Fluorene; 4-Dimethylaminoazobenzene; N-Nitrosodimethylamine.

(vi) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under WAC 296-62-07310 (2), (3) and (4).

~~((vi))~~ (vii) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

~~((vii))~~ (viii) Employees shall be required to shower after the last exit of the day.

~~((viii))~~ (ix) Drinking fountains are prohibited in the regulated area.

(e) Maintenance and decontamination activities. In clean up of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with carcinogens could result, each authorized employee entering the area shall:

(i) Be provided with and required to wear, clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with chapter 296-24 WAC, the general safety and health standards, and respiratory protective equipment required by this chapter 296-62 WAC;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this subdivision shall apply to research and quality control activities involving the use of carcinogens listed in WAC 296-62-07302.

(i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which carcinogens are handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of listed carcinogens shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be:

(A) Provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day,

to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(D) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be:

(A) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where carcinogens are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of the carcinogens shall be maintained.

(xii) Ventilated apparatus such as laboratory-type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

#### AMENDATORY SECTION (Amending Order 88-04, filed 5/11/88)

##### **WAC 296-62-07342 1,2-dibromo-3-chloropropane.**

(1) Scope and application.

(a) This section applies to occupational exposure to 1,2-dibromo-3-chloropropane (DBCP).

(b) This section does not apply to:

(i) Exposure to DBCP which results solely from the application and use of DBCP as a pesticide; or

(ii) The storage, transportation, distribution or sale of DBCP in intact containers sealed in such a manner as to prevent exposure to DBCP vapors or liquids, except for the requirements of subsections (11), (16) and (17) of this section.

(2) Definitions applicable to this section:

(a) "Authorized person" - any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative

of employees exercising an opportunity to observe employee exposure monitoring.

(b) "DBCP" - 1,2-dibromo-3-chloropropane, Chemical Abstracts Service Registry Number 96-12-8, and includes all forms of DBCP.

(c) "Director" - the director of labor and industries, or his authorized representative.

(d) "Emergency" - any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may, or does, result in unexpected release of DBCP.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration in excess of 1 part DBCP per billion part of air (ppb) as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration in excess of 5 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) Respirators.

(a) General. Where respiratory protection is required under this section, the employer shall select, provide and assure the proper use of respirators.

(b) Respirators shall be used in the following circumstances:

(i) During the period necessary to install or implement feasible engineering and work practice controls; or

(ii) During maintenance and repair activities in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(9) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I of this section and shall assure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE I  
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator. (ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood. (ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an

PROPOSED

auxiliary self-contained breathing apparatus.

- (ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

(f) Firefighting:

- (i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

(c) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(10) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.

(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.

(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.

(f) Exposure monitoring.

(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.

(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.

(11) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect the area of the body which may come in contact with DBCP.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) Removal and storage.

(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.

(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and solids. This clothing shall not be reworn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(12) Housekeeping.

(a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(13) Hygiene facilities and practices. (~~Hygiene facilities shall be provided and practices implemented in accordance with the requirements of WAC 296-24-12009.~~)

(a) Change rooms. The employer shall provide clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing

and equipment whenever employees are required to wear protective clothing and equipment in accordance with subsections (8), (9) and (11) of this section.

(b) Showers.

(i) The employer shall assure that employees working in the regulated area shower at the end of the work shift.

(ii) The employer shall assure that employees whose skin becomes contaminated with DBCP-containing liquids or solids immediately wash or shower to remove any DBCP from the skin.

(iii) The employer shall provide shower facilities in accordance with WAC 296-24-12009 (3)(c).

(c) Lunchrooms. The employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(d) Lavatories.

(i) The employer shall assure that employees working in the regulated area remove protective clothing and wash their hands and face prior to eating.

(ii) The employer shall provide a sufficient number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(e) Prohibition of activities in regulated areas. The employer shall assure that, in regulated areas, food or beverages are not present or consumed, smoking products and implements are not present or used, and cosmetics are not present or applied.

(14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. (~~Within 30 days of the effective date of this section or time of initial assignment, and whenever exposure to DBCP, the employer shall provide a medical examination including~~) At the time of initial assignment, annually thereafter, and whenever exposure to DBCP occurs, the employer shall provide a medical examination for employees who work in regulated areas, which includes at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

- (A) Sperm count;
- (B) Complete urinalysis (U/A);
- (C) Complete blood count; and
- (D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

- (A) Serum multiphasic analysis (SMA 12);
- (B) Serum follicle stimulating hormone (FSH);
- (C) Serum luteinizing hormone (LH); and

(D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

- (i) A copy of this standard and its appendices;
- (ii) A description of the affected employee's duties as they relate to the employee's exposure;
- (iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(e) Physician's written opinion.

(i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:

- (A) The results of the medical tests performed;
- (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

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(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER

1,2-Dibromo-3-chloropropane

CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory worn, if any; and

(D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the physician's written opinion;

(C) Any employee medical complaints related to exposure to DBCP;

(D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and

(E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is

required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) Effective date. This standard will become effective July 28, 1978.

(20) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

**AMENDATORY SECTION** (Amending Order 93-06, filed 10/20/93, effective 12/1/93)

**WAC 296-62-07445 Appendix C—Qualitative and quantitative fit testing procedures—(Fit test protocols).**

(1) General: The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT). All testing is to be conducted annually.

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece. Respirators of each size must be provided from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use; it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted, maintained and used properly, will provide substantial protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test

subject adequate time to determine the comfort of the respirator:

(i) Position of the mask on the nose;

(ii) Room for eye protection;

(iii) Room to talk; and

(iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

(i) Chin properly placed;

(ii) Adequate strap tension, not overly tightened;

(iii) Fit across nose bridge;

(iv) Respirator of proper size to span distance from nose to chin;

(v) Tendency of respirator to slip; and

(vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or in ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s). Inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine, in accordance with WAC 296-62-07423 (2) and (3), whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall maintain a record of the fit test administered to an employee. The record shall contain at least the following information:

(i) Name of employee;

(ii) Type of respirator;

(iii) Brand, size of respirator;



(iv) Date of test; and  
 (v) Where QNFT is used, the fit factor and strip chart recording or other recording of the results of the test. The record shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, without talking, the subject shall breathe slowly and deeply, taking care so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as exercise one. Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds. The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall assure that persons administering QLFTs are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(iii) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate within the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor free water (e.g., distilled or spring water) at approximately twenty-five degrees C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one-liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated and shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five-gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; and to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banana like odor of IAA, the respirator fit is inadequate. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the respirator fit was inadequate, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(d) Saccharin solution aerosol protocol.

The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(B) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (ii)(E) below) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after 30 squeezes (step (J)), the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(B) The fit test uses the same enclosure described in (i) above.

(C) The test subject shall don the enclosure while wearing the respirator selected in (1)(a) of this section. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in (1)(n) of this section.

(I) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) Quantitative fit test. The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(ii) Challenge agent means the aerosol, gas or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) Test subject means the person wearing the respirator for quantitative fit testing.

(iv) Normal standing position means standing erect and straight with arms down along the sides and looking straight ahead.

(v) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ration of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(C) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration;

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

**AMENDATORY SECTION** (Amending WSR 95-04-078, filed 1/30/95, effective 3/2/95)

**WAC 296-62-07521 Lead.** (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-306 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air (30  $\mu\text{g}/\text{m}^3$ ) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) General requirements.

(a) Employers will assess the hazards of lead in the work place and provide information to the employees about the hazards of the lead exposures to which they may be exposed.

(b) Information provided shall include:

(i) Exposure monitoring (including employee notification);

(ii) Written compliance programs;

(iii) Respiratory protection programs;

(iv) Personnel protective equipment and housekeeping;

(v) Medical surveillance and examinations;

(vi) Training requirements;

(vii) Recordkeeping requirements.

(4) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ( $50 \mu\text{g}/\text{m}^3$ ) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

$$\text{Maximum permissible limit (in } \mu\text{g}/\text{m}^3) = 400 \div \text{hours worked in the day.}$$

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (7) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(5) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (5), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (5)(c), the employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (5)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (5)(b) and (5)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the

exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (5)(b) and (5)(c) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer shall make a written record of such determination. The record shall include at least the information specified in subdivision (5)(c) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (5)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (5)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (5)(f)(ii), except as otherwise provided in subdivision (5)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy

(to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than 30 µg/m<sup>3</sup>.

(6) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and maintain employee exposure to lead in accordance with the implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (7) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m<sup>3</sup>, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m<sup>3</sup>.

(TABLE I)  
IMPLEMENTATION SCHEDULE

Industry <sup>1</sup>	Compliance Dates <sup>2</sup>		
	200 µg/m <sup>3</sup>	100 µg/m <sup>3</sup>	50 µg/m <sup>3</sup>
Primary lead production	(3)	<sup>2</sup> June 29, 1984	<sup>2</sup> June 29, 1991.
Secondary lead production	(3)	<sup>2</sup> June 29, 1984	<sup>2</sup> June 29, 1986.
Lead-acid battery manufacturing	(3)	<sup>2</sup> June 29, 1983	<sup>2</sup> June 29, 1986.
Automobile manufacture/solder grinding	(3)	N/A	<sup>2</sup> June 29, 1986.
Electronics, gray iron foundries, ink manufacture, paints and coatings manufacture, wall paper manufacture, can manufacture, and printing	(3)	N/A	<sup>2</sup> June 29, 1982.
Brass and bronze ingot manufacture, lead chemical manufacture, and secondary copper smelting	(3)	N/A	<sup>4</sup> 5 years.
Nonferrous foundries	(3)	N/A	<sup>4,5</sup> 5 years.
All other industries	(3)	N/A	<sup>4</sup> 2 1/2 years.

Note: <sup>1</sup>Includes ancillary activities located on the same worksite.  
<sup>2</sup>This date is calculated by counting, from June 29, 1981, (the date when the United States Supreme Court denied certiorari and lifted the stay on the implementation of paragraph (6)(a)), the number of years specified for the particular industry in the original lead standard for compliance with the given airborne exposure level. The denial of certiorari followed a decision of the United States Court of Appeals for the District of Columbia Circuit finding compliance with paragraph (6)(a) to be feasible for the relevant industries.  
<sup>3</sup>On effective date. This continues an obligation from WAC 296-62-07515 Table I which had been in effect since 1973.

<sup>4</sup>Expressed as the number of years from the date on which the court lifts the stay on the implementation of paragraph (6)(a) for the particular industry.  
<sup>5</sup>Large nonferrous foundries (20 or more employees) are required to achieve 50 µg/m<sup>3</sup> by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees), however, are only required to achieve 75 µg/m<sup>3</sup> by such controls. All foundries are required to comply within five years.)

TABLE I

Industry	Compliance dates: <sup>1</sup> (50 µg/m <sup>3</sup> )
Lead chemicals, secondary copper smelting.	July 19, 1996
Nonferrous foundries	July 19, 1996. <sup>2</sup>
Brass and bronze ingot manufacture.	6 years. <sup>3</sup>

<sup>1</sup> Calculated by counting from the date the stay on implementation of subsection (6)(a) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m<sup>3</sup> for exposure to airborne concentrations of lead levels for the particular industry.  
<sup>2</sup> Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m<sup>3</sup> by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m<sup>3</sup> by such controls.  
<sup>3</sup> Expressed as the number of years from the date on which the Court lifts the stay on the implementation of subsection (6)(a) for this industry for employers to achieve a lead in air concentration of 75 µg/m<sup>3</sup>. Compliance with subsection (6) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m<sup>3</sup> permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (7).

(c) Compliance program.

(i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (6)(a).

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

PROPOSED

(F) A work practice program which includes items required under subsections (8), (9) and (10) of this regulation;

(G) An administrative control schedule required by subdivision (6)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

~~(d) ((Bypass of interim level. Where an employer's compliance plan provides for a reduction of employee exposures to or below the PEL solely by means of engineering and work practice controls in accordance with the implementation schedule in Table I, and the employer has determined that compliance with the 100 µg/m<sup>3</sup> interim level would divert resources to the extent that it clearly precludes compliance, otherwise attainable, with the PEL by the required time, the employer may proceed with the plan to comply with the PEL in lieu of compliance with the interim level if:~~

~~(i) The compliance plan clearly documents the basis of the determination;~~

~~(ii) The employer takes all feasible steps to provide maximum protection for employees until the PEL is met; and~~

~~(iii) The employer notifies the director in writing within ten working days of the completion or revision of the compliance plan reflecting the determination.~~

~~(e)) Mechanical ventilation.~~

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

~~((#))~~ (e) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(7) Respiratory protection.

(a) General. Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which

comply with the requirements of this subsection. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement engineering or work practice controls ~~((except that after the dates for compliance with the interim levels in Table I, no employer shall require an employee to wear a negative pressure respirator longer than 4.4 hours per day)); and~~

(ii) In work situations in which engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit; and

(iii) Whenever an employee requests a respirator.

(b) Respirator selection.

(i) Where respirators are required under this section the employer shall select the appropriate respirator or combination of respirators from Table II.

TABLE II  
RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator <sup>1</sup>
Not in excess of 0.5 mg/m <sup>3</sup> (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. <sup>2,3</sup>
Not in excess of 2.5 mg/m <sup>3</sup> (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. <sup>3</sup>
Not in excess of 50 mg/m <sup>3</sup> (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters <sup>3</sup> ; or (2) Half-mask supplied air respirator operated in positive-pressure mode. <sup>2</sup>
Not in excess of 100 mg/m <sup>3</sup> (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m <sup>3</sup> , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

Note: <sup>1</sup> Respirators specified for high concentrations can be used at lower concentrations of lead.

<sup>2</sup> Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

<sup>3</sup> A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

(ii) The employer shall provide a powered, air-purifying respirator in lieu of the respirator specified, in Table II whenever:

(A) An employee chooses to use this type of respirator; and

(B) This respirator will provide adequate protection to the employee.

(iii) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(c) Respirator usage.

(i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

PROPOSED

(ii) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with Appendix D. The tests shall be used to select facepieces that provide the required protection as prescribed in Table II.

(iii) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with subitem (11)(c)(i)(C) of this section to determine whether the employee can wear a respirator while performing the required duty.

(d) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.

(8) Protective work clothing and equipment.

(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, hats, and shoes or disposable shoe coverlets; and

(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-078.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (8)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200  $\mu\text{g}/\text{m}^3$  of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (8)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (10)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (8)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD.  
DO NOT REMOVE DUST BY BLOWING OR SHAKING.  
DISPOSE OF LEAD CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(9) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the reentry of lead into the workplace.

(10) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (10)(b) through (10)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009.

(iii) The employer shall assure that employees who are required to shower pursuant to item (10)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above



the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(11) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (11)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.

(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (11)(a)(i) of this section;

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above 40 µg/100 g of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 µg/100 g of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i)(A), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant the this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or 6 µg/100 ml, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds 40 µg/100 g: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits

when an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 µg/100 g;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to subitems (11)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (11)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examin-

ing or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (11)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(12) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

(A) ~~(First year of the standard. During the first year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above 100 µg/m<sup>3</sup> on each occasion that a periodic and a follow up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 80 µg/100 g of whole blood;~~

~~(B) Second year of the standard. During the second year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above 50 µg/m<sup>3</sup> on each occasion that a periodic and a follow up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 70 µg/100 g of whole blood;~~

~~(C) Third year of the standard, and thereafter. Beginning with the third year following the effective date of the standard,))~~ The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60 µg/100 g of whole blood; and

~~((D) Fifth year of the standard, and thereafter. Beginning with the fifth year following the effective date of the standard,))~~ (B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 µg/100 g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 µg/100 g of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

(I) ~~((For an employee removed due to a blood lead level at or above 80 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 60 µg/100 g of whole blood;~~

~~(II) For an employee removed due to a blood lead level at or above 70 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 50 µg/100 g of whole blood;~~

~~((H))~~ For an employee removed due to a blood lead level at or above 60 µg/100 g, or due to an average blood lead level at or above 50 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 µg/100 g of whole blood;

~~((IV))~~ (II) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) Removal. The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) Return. The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) Medical removal protection benefits.

(i) Provision of medical removal protection benefits. The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) Follow-up medical surveillance during the period of employee removal or limitation. During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments

for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) Employees whose blood lead levels do not adequately decline within eighteen months of removal. The employer shall take the following measures with respect to any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (12)(b)(i) of this section.

(13) Employee information and training.

(a) Training program.

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (13)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

(A) The content of this standard and its appendices;

(B) The specific nature of the operations which could result in exposure to lead above the action level;

(C) The purpose, proper selection, fitting, use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);

(E) The engineering controls and work practices associated with the employee's job assignment;

(F) The contents of any compliance plan in effect; and

(G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.

(b) Access to information and training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(iii) In addition to the information required by item (13)(a)(v), the employer shall include as part of the training program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.

(14) Signs.

(a) General.

(i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.

(b) Signs.

(i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING  
LEAD WORK AREA  
POISON  
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(15) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) the environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (11) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (11) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.

(c) Medical removals.

(i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (12) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(d) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (15) of this section to the director for examination and copying.

(ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Medical removal records shall be provided in the same manner as environmental monitoring records.

(iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (15) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(16) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(17) Effective date. The effective date of this standard is September 6, 1980.

(18) Startup dates. All obligations of this standard commence on the effective date except as follows:

(a) The initial determination under subdivision (5)(b) shall be made as soon as possible but no later than thirty days from the effective date.

(b) Initial monitoring under subdivision (5)(d) shall be completed as soon as possible but no later than ninety days from the effective date.

(c) Initial biological monitoring and medical examinations under subsection (11) shall be completed as soon as possible but no later than one hundred eighty days from the effective date. Priority for biological monitoring and medical examinations shall be given to employees whom the employer believes to be at greatest risk from continued exposure.

(d) Initial training and education shall be completed as soon as possible but no later than one hundred eighty days from the effective date.

(e) Hygiene and lunchroom facilities under subsection (10) shall be in operation as soon as possible but no later than one year from the effective year.

(f) Respiratory protection required by subsection (7) shall be provided as soon as possible but no later than the following schedule:

(i) Employees whose eight-hour TWA exposure exceeds  $200 \mu\text{g}/\text{m}^3$  - on the effective date.

(ii) Employees whose eight-hour TWA exposure exceeds the PEL but is less than  $200 \mu\text{g}/\text{m}^3$  - one hundred fifty days from the effective date.

(iii) Powered, air-purifying respirators provided under (7)(b)(ii) - two hundred ten days from the effective date.

(iv) Quantitative fit testing required under item (7)(c)(ii) - one year from effective date. Qualitative fit testing is required in the interim.

(g) Written compliance plans required by subdivision (6)(c) shall be completed and available for inspection and copying as soon as possible but no later than the following schedule:

(i) Employers for whom compliance with the PEL or interim level is required within one year from the effective date - six months from the effective date.

(ii) Employers in secondary lead smelting and refining and in lead storage battery manufacturing—one year from the effective date.

(iii) Employers in primary smelting and refining industry - one year from the effective date from the interim level; five years from the effective date for PEL.

(iv) Plans for construction of hygiene facilities, if required - six months from the effective date.

(v) All other industries—one year from the date on which the court lifts the stay on the implementation of paragraph (6)(a) for the particular industry.

(h) The permissible exposure limit in subsection (4) shall become effective one hundred fifty days from the effective date.

(19) Appendices. The information contained in the appendices to this section is not intended by itself, to create

any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(a) Appendix A. Substance Data Sheet for Occupational Exposure to Lead.

(i) Substance identification.

(A) Substance. Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

(B) Compounds covered by the standard. The word "lead" when used in this standard means elemental lead, all inorganic lead compounds (except those which are not biologically available due to either solubility or specific chemical interaction), and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

(C) Uses. Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use, shipbuilding and ship repairing, auto manufacturing, and printing.

(D) Permissible exposure. The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air ( $50 \mu\text{g}/\text{m}^3$ ), averaged over an eight-hour work day.

(E) Action level. The standard establishes an action level of 30 micrograms per cubic meter of air ( $30 \mu\text{g}/\text{m}^3$ ) time weighted average, based on an eight-hour work day. The action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

(ii) Health hazard data.

(A) Ways in which lead enters your body.

(I) When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.

(II) Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist, it can be inhaled and absorbed through your lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.

(III) A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in your blood and other tissue. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting.

Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.

(B) Effects of overexposure to lead.

(I) Short-term (acute) overexposure. Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short-term dose of lead can lead to acute encephalopathy. Short-term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or as long as several years.

(II) Long-term (chronic) overexposure.

a) Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

b) Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

c) Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression of kidney dialysis or death is possible.

d) Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the

placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

e) Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(III) Health protection goals of the standard.

a) Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood (40  $\mu\text{g}/100\text{g}$ ). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30  $\mu\text{g}/100\text{g}$  to minimize adverse reproductive health effects to the parents and to the developing fetus.

b) The measurement of your blood lead level is the most useful indicator of the amount of lead absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms ( $\mu\text{g}$ ) of lead (1 mg=1000  $\mu\text{g}$ ) per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometimes PbB's are expressed in the form of mg% or  $\mu\text{g}\%$ . This is a shorthand notation for 100g, 100ml, or dl.

c) PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

d) Once your blood lead level climbs above 40  $\mu\text{g}/100\text{g}$ , your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150  $\mu\text{g}/100\text{g}$ . Other studies have shown other forms of disease in some workers with PbBs well below 80  $\mu\text{g}/100\text{g}$ . Your PbB is a crucial indicator of the risks to your health, but one other factor is extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

e) The best way to prevent all forms of lead-related impairments and diseases—both short-term and long-term—is to maintain your PbB below 40  $\mu\text{g}/100\text{g}$ . The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company

and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own action, and seeing that your employer complies with the provisions governing his actions.

(IV) Reporting signs and symptoms of health problems. You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

(b) Appendix B. Employee Standard Summary. This appendix summarizes key provisions of the standard that you as a worker should become familiar with. The appendix discusses the entire standard.

(i) Permissible exposure limit (PEL). The standard sets a permissible exposure limit (PEL) of fifty micrograms of lead per cubic meter of air ( $50 \mu\text{g}/\text{m}^3$ ), averaged over and eight-hour workday. This is the highest level of lead in air to which you may be permissibly exposed over an eight-hour workday. Since it is an eight-hour average it permits short exposures above the PEL so long as for each eight-hour workday your average exposure does not exceed the PEL.

(ii) Exposure monitoring.

(A) If lead is present in the work place where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. The initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level ( $30 \mu\text{g}/\text{m}^3$ ) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your work place.

(B) In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least seven hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead.

(C) If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you

in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

(D) Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if two consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your work place which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(iii) Methods of compliance. Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL.

(iv) Respiratory protection.

(A) Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

(B) Your employer is required to select respirators from the seven types listed in Table II of the respiratory protection section of chapter 296-62 WAC. Any respirator chosen must be approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH). This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your work place. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative-pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time.

(C) Your employer must also start a respiratory protection program. This program must include written procedures



for the proper selection, use, cleaning, storage, and maintenance of respirators.

(D) Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical. Obtaining a proper fit on each employee may require your employer to make available two or three different mask types. Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and which requires the force of your inhalation to draw air through the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator. Appendix D describes "qualitative" procedures which are acceptable under certain conditions.

(E) You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

(F) The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

(v) Protective work clothing and equipment. If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200  $\mu\text{g}/\text{m}^3$ . Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He or she is responsible for providing repairs and replacement as necessary and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the work room air.

(vi) Housekeeping. Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces

is absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the work place.

(vii) Hygiene facilities and practices.

(A) The standard requires that change rooms, showers and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. When the PEL is exceeded, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers and lunchrooms, must be used by workers exposed in excess of the PEL. After showering, no clothing or equipment worn during the shift may be worn home and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth or other cleaning methods. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

(B) All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(viii) Medical surveillance.

(A) The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have effectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (I) who have high body burdens of lead acquired over past years, (II) who have additional uncontrolled sources of nonoccupational lead exposure, (III) who exhibit unusual variations in lead absorption rates, or (IV) who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability - regardless of whether you are a man or a woman.

(B) All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts - periodic biological monitoring, and medical examinations.

(C) Your employer's obligation to offer medical surveillance is triggered by the results of the air monitoring

program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which included blood lead level tests and medical examinations, must be completed for all covered employees no later than 180 days from the effective date of this standard. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance - both biological monitoring and medical examinations - available to all covered employees.

(D) Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every six months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an effect of lead on your body. If a worker's PbB exceeds 40 µg/100g, the monitoring frequency must be increased from every six months to at least every two months and not reduced until two consecutive PbBs indicate a blood lead level below 40 µg/100g. Each time your PbB is determined to be over 40µg/100g, your employer must notify you of this in writing within five working days of the receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your PbB exceeds certain criteria (see Discussion of Medical Removal Protection - subsection (12)). During the first year of the standard, this removal criterion is 80 µg/100g. Anytime your PbB exceeds 80 µg/100g your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80 µg/100g and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

(E) Medical examinations beyond the initial one must be made available on an annual basis if your blood lead levels exceeds 40µg/100g at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

(F) Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard (see item (ix) below).

(G) The standard specifies the minimum content of preassignment and annual medical examinations. The

content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Preassignment and annual medical examinations must include (I) a detailed work history and medical history, (II) a thorough physical examination, and (III) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

(H) The standard does not require that you participate in any of the medical procedures, tests, etc., which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. Generally, your employer will choose the physician who conducts medical surveillance under the lead standard - unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

(I) The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (I) the standard and its appendices, (II) a description of your duties as they relate to lead exposure, (III) your exposure level, (IV) a description of personal protective equipment you wear, (V) prior blood level results, and (VI) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (I) the physician's opinion as to whether you have any medical conditions which places you at increased risk of material impairment to health from exposure to lead, (II) any recommended special protective measures to be provided to you, (III) any blood lead level determinations, and (IV) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

(J) The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker to learn of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

(K) The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na<sub>2</sub>EDTA), Calcium Disodium Versenate (Versenate), and D-penicillamine (penicillamine or Cupramine).

(L) The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to predesignated concentrations believed to be safe. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

(M) The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation, involves giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

(N) In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(ix) Medical removal protection.

(A) Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of

protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a long-term worker's blood lead level does not adequately decline during eighteen months of removal.

(B) During the first year of the standard, if your blood lead level is 80 µg/100g or above you must be removed from any exposure where your air lead level without a respirator would be 100 µg/m<sup>3</sup> or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 µg/100g. These criteria for removal and return will change according to the following schedule:

TABLE 1

Effective Date	Removal Blood Level (µg/100g)	Air Lead (µg/m <sup>3</sup> )	Return Blood Lead (µg/100g)
9/6/81	At or above 70	50 or above	At or below 50
9/6/82	At or above 60	30 or above	At or below 40
9/6/84	At or above 50	30 or above	At or below 40
	averaged over six months		

(C) You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the physician indicates it is safe for you to do so.

(D) The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

(E) In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

(F) In all of these situations, MRP benefits must be provided during the period of removal - i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings include more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided

with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the physician believes to be appropriate. If you do not participate in this follow-up medical surveillance, you may lose your eligibility for MRP benefits.

(G) When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred, that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

(H) If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

(I) The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(x) Employee information and training.

(A) Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition, your employer must make readily available to all employees, included those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials provided to the employer under the Washington Industrial Safety and Health Act (WISHA).

(B) Your employer is required to complete this training for all employees by March 4, 1981. After this date, all new employees must be trained prior to initial assignment to areas where there is possibility of exposure over the action level. This training program must also be provided at least annually thereafter.

(xi) Signs. The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING  
LEAD WORK AREA  
NO SMOKING OR EATING

(xii) Recordkeeping.

(A) Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion and a copy of the results of the examination. All of the above kinds of records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

(B) Recordkeeping is also required if you are temporarily removed from your job under the MRP program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

(C) The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbBs must also be provided to you upon request, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(xiii) Observations of monitoring. When air monitoring for lead is performed at your work place as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the areas that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(xiv) Effective date. The standard's effective date is September 6, 1980, and the employer's obligation under the standard begin to come into effect as of that date. The standard was originally adopted as WAC 296-62-07349 and later recodified to WAC 296-62-07521.

(c) Appendix C. Medical Surveillance Guidelines.

(i) Introduction.

(A) The primary purpose of the Washington Industrial Safety and Health Act of 1973 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupational health standard for inorganic lead\* was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

\*The term inorganic lead used throughout the medical surveillance appendices is meant to be synonymous with the definition of lead set forth in the standard.

(B) Under this final standard in effect as of September 6, 1980, occupational exposure to inorganic lead is to be limited to 50 µg/m<sup>3</sup> (micrograms per cubic meter) based on an eight-hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from one to ten years are provided for different industries to implement these controls which are based on individual industry considerations. Until these controls are in place, respirators must be used to meet the 50 µg/m<sup>3</sup> exposure limit.

(C) The standard also provides for a program of biological monitoring and medical surveillance for all employees exposed to levels of inorganic lead above the action level of 30 µg/m<sup>3</sup> for more than thirty days per year.

(D) The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

(E) Item (ii) provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and WISHA's position on prophylactic chelation therapy are also included in this section.

(F) Item (iii) discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

(G) Item (iv) outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in item (ii).

(H) Item (v) provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

(I) Airborne levels to be achieved without reliance or respirator protection through a combination of engineering and work practice or other administrative controls are illustrated in the following table:

Industry	Permissible Lead Level/ Compliance Date		
	200µg/m <sup>3</sup>	100µg/m <sup>3</sup>	50µg/m <sup>3</sup>
Primary Lead Production	1973	06/29/84	06/29/91
Secondary Lead Production	1973	06/29/84	06/29/91
Lead Acid Battery Manufacturing	1973	06/29/83	06/29/91
Automobile Mfg./Solder, Grinding	1973	N/A	03/08/97

Electronics, Gray Iron Foundries, Ink Mfg., Paints and Coatings Mfg., Can Mfg., Wallpaper Mfg., and Printing.	1973	N/A	06/29/91
Lead Chemical Mfg., Nonferrous Foundries, Leaded Steel Mfg., Battery Breaking in the Collection and Processing of Scrap (when not a part of secondary lead smelter)			
Secondary Copper Smelter, Brass and Bronze Ingot Production.	1973	N/A	N/A <sup>1*</sup>
All Other Industries	1973	N/A	09/08/92

\* Feasibility of achieving the PEL by engineering and work practice controls for these industries has yet to be resolved in court, therefore no date has been scheduled.

(ii) Medical surveillance and monitoring requirements for workers exposed to inorganic lead.

(A) Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 µg/m<sup>3</sup> TWA for more than thirty days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

(B) Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 µg/m<sup>3</sup> is to be determined at least every six months. The frequency is increased to every two months for employees whose last blood lead level was between 40µg/100g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. Zinc protoporphyrin (ZPP) measurement is (~~strongly recommended~~) required on each occasion that a blood lead level measurement is made.

(C) An annual medical examination and consultation performed under the guidelines discussed in item (iv) is to be made available to each employee for whom a blood test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40µg/100g. Also, an examination is to be given to all employees prior to their assignment to an area in which airborne lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

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(D) Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal program (MRP). The object of the MRP program is to provide temporary medical removals to workers either with substantially elevated blood lead

levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 10 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

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**TABLE 10**

	Effective Date				
	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984 (final)
<b>A.</b> Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level within two weeks of first report.)	> 80 µg/100g.	> 70 µg/100g.	> 60 µg/100g.	> 60 µg/100g.	> 60 µg/100g. or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g or greater unless last sample is 40 µg/100g or less.
<b>B.</b> Frequency which employees exposed to action level of lead (30 µg/m <sup>3</sup> TWA) must have blood lead level checked. (ZPP is also strongly recommended in each occasion that a blood test is obtained):					
1. Last blood lead level less than 40 µg/100g. ....	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.
2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above). . . .	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.
3. Employees removed from exposure to lead because of an elevated blood lead level. ....	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.
<b>C.</b> Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).	100 µg/m <sup>3</sup> 8 hr TWA	50 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA
<b>D.</b> Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.	> 60 µg/100g	> 50 µg/100g	> 40 µg/100g	> 40 µg/100g	> 40 µg/100g

**NOTE:** When medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposures exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

TABLE 10

	EFFECTIVE DATE				
	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
<b>A.</b> <u>Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level with two weeks of first report).</u>	<u>&gt;80 µg/100g.</u>	<u>&gt;70 µg/100g.</u>	<u>&gt;60 µg/100g.</u>	<u>&gt;60 µg/100g.</u>	<u>&gt;60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g. or greater unless last</u>

sample is 40 µg/100g or less.

<p><b>B.</b> <u>Frequency which employees exposed is action level of lead (30 µg/m<sup>3</sup> TWA) must have blood lead level checked. (ZPP is also required in each occasion that a blood test is obtained):</u></p> <p>1. <u>Last blood lead level less than 40 µg/100g</u> . . . . .</p> <p>2. <u>Last blood lead level between 40 µg/100g and level requiring medical removal (see A above)</u> . . . . .</p> <p>3. <u>Employees removed from exposure to lead because of an elevated blood lead level</u> . . . . .</p>	<p>Every 6 months.</p> <p>Every 2 months.</p> <p>Every 1 month.</p>	<p>Every 6 months.</p> <p>Every 2 months.</p> <p>Every 1 month.</p>	<p>Every 6 months.</p> <p>Every 2 months.</p> <p>Every 1 month.</p>	<p>Every 6 months.</p> <p>Every 2 months.</p> <p>Every 1 month.</p>	<p>Every 6 months.</p> <p>Every 2 months.</p> <p>Every 1 month.</p>
<p><b>C.</b> <u>Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).</u></p>	<p>100 µg/m<sup>3</sup> 8 hr TWA</p>	<p>50 µg/m<sup>3</sup> 8 hr TWA</p>	<p>30 µg/m<sup>3</sup> 8 hr TWA</p>	<p>30 µg/m<sup>3</sup> 8 hr TWA</p>	<p>30 µg/m<sup>3</sup> 8 hr TWA</p>
<p><b>D.</b> <u>Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.</u></p>	<p>60 µg/100g</p>	<p>50 µg/100g</p>	<p>40 µg/100g</p>	<p>40 µg/100g</p>	<p>40 µg/100g</p>

**Note:** Where medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

(E) Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight-hour TWA exposure to lead of 30 µg/m<sup>3</sup> or more whenever either of the following circumstances apply. (I) a blood lead level of 60 µg/100g or greater is obtained and confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first blood sample test, or (II) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 µg/100g, unless the last blood sample indicates a blood lead level at or below 40 µg/100g, in which case the employee need not be removed. Medical removal is to continue until two consecutive blood lead levels are 40 µg/100g or less.

(F) During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially declined during the period of removal. From March 1, 1979, to March 1, 1980, the blood lead level requiring employee

medical removal is 80 µg/100g. Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily eight hour TWA exposure to lead at or above 100 µg/m<sup>3</sup>. Workers so removed are to be returned to work when their blood lead levels are at or below 60 µg/100g of whole blood. From March 1, 1980, to March 1, 1981, the blood lead level requiring medical removal is 70 µg/100g. During this period workers need only be removed from jobs having a daily eight hour TWA exposure to lead at or above 50 µg/m<sup>3</sup> and are to be returned to work when a level of 50 µg/100g is achieved. Beginning March 1, 1981, return depends on the worker's blood lead level declining to 40 µg/100g of whole blood.

(G) As part of the standard, the employer is required to notify in writing each employee whose whole blood lead level exceeds 40 µg/100g. In addition, each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

(H) In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective

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measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to conceive children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that the special measures are no longer needed.

(I) During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker has not been removed) for a period of up to eighteen months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful work place. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

(J) On rare occasions, an employee's blood lead level may not acceptably decline within eighteen months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past eighteen months for some employees or specify special protective measures to be implemented.

(K) The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

(L) The employer must provide examining and consulting physicians with the following specific information: A

copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physician's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

(M) Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or nonoccupationally related medical condition requiring further treatment or evaluation.

(N) The standard provides for the use of respirators when engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice are inadequate by providing interim or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

(O) In its final standard on occupational exposure to inorganic lead, WISHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels and other laboratory tests as appropriate. EDTA and penicillamine, which are the primary chelating agents used in the therapy of occupational lead poisoning, have significant potential side effects and their use must be justified on the basis of expected benefits to the worker.

(P) Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the tests can differentiate between lead-induced and other nephropathies.



The test may also provide an estimation of the mobile fraction of the total body lead burden.

(Q) Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for forty years or the duration of employment plus twenty years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be made available upon request to representatives of the director of the department of labor and industries. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

(R) In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

(iii) Adverse health effects of inorganic lead.

(A) Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments; first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40  $\mu\text{g}/100\text{g}$ , and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30  $\mu\text{g}/100\text{g}$  to minimize adverse reproduction health effects to the parent and developing fetus. The adverse effects of lead on reproduction are being actively researched and WISHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

(B) The spectrum of health effects caused by lead exposure can be sub-divided into five developmental states; normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses [responses] and exposures in the working population. WISHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

(I) Heme synthesis inhibition.

a) The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes [enzymes] of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to

protoporphyrin is observed at a blood lead level below 20  $\mu\text{g}/100\text{g}$  whole blood. At a blood lead level of 40  $\mu\text{g}/100\text{g}$ , more than twenty percent of the population would have seventy percent inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40  $\mu\text{g}/100\text{g}$ .

b) Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50  $\mu\text{g}/100\text{g}$  or greater, nearly 100 percent of the population will have an increase FEP. There is also an exponential relationship between blood lead levels greater than 40  $\mu\text{g}/100\text{g}$  and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

c) While the significance of these effects is subject to debate, it is WISHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

d) One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50  $\mu\text{g}/100\text{g}$  can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80  $\mu\text{g}/100\text{g}$ . Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

e) In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

(II) Neurological effects.

a) Inorganic lead had been found to have toxic effects on both the central and peripheral nervous systems. The earliest stage of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

b) The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

c) While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60  $\mu\text{g}/100\text{g}$  whole blood and therefore recommend a 40  $\mu\text{g}/100\text{g}$  maximum. The central nervous system effects frequently are not reversible following discontinued

exposure or chelation therapy and when improvement does occur, it is almost always only partial.

d) The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50  $\mu\text{g}/100\text{g}$  is manifested by slowing or motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop, much less commonly, foot drop.

e) In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50  $\mu\text{g}/100\text{g}$  have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculation. Whether these effects occur at levels of 40  $\mu\text{g}/100\text{g}$  is undetermined.

f) While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

(III) Gastrointestinal. Lead may also effect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80  $\mu\text{g}/100\text{g}$ .

#### (IV) Renal.

a) Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal functions remain normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

b) Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

#### (V) Reproductive effects.

a) Exposure to lead can have serious effects on reproductive function in both males and females. In male

workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can occur. Teratospermia has been noted at mean blood lead levels of 53  $\mu\text{g}/100\text{g}$  and hypospermia and asthenospermia at 41  $\mu\text{g}/100\text{g}$ . Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

b) Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

c) Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

d) Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

e) Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12-14 weeks of gestation and increases until birth.

f) There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50-60  $\mu\text{g}/100\text{g}$  in children can cause significant neurobehavioral impairments, and there is evidence of hyperactivity at blood levels as low as 25  $\mu\text{g}/100\text{g}$ . Given the overall body of literature concerning the adverse health effects of lead in children, WISHA feels that the blood lead level in children should be maintained below 30  $\mu\text{g}/100\text{g}$  with a population mean of 15  $\mu\text{g}/100\text{g}$ . Blood lead levels in the fetus and newborn likewise should not exceed 30  $\mu\text{g}/100\text{g}$ .

g) Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both males and females as well as the risk of genetic damage of lead on both the ovum and sperm, WISHA recommends a 30  $\mu\text{g}/100\text{g}$  maximum permissible blood lead level in both males and females who wish to bear children.

#### (IV) Other toxic effects.

a) Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidneys or if some other mechanism is involved.

b) Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

#### (iv) Medical evaluation.

(A) The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section (ii), lead can affect numerous organ systems and produce a wide array of signs

and symptoms, most of which are nonspecific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

(B) The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead-containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

(C) Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

(D) A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long-term effects such as neurotoxicity and nephrotoxicity are considered.

(E) The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also nonoccupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

(F) A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

- General - weight loss, fatigue, decreased appetite.
- Head, Eyes, Ears, Nose, Throat (HEENT) - headaches, visual disturbance or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
- Cardio-pulmonary - shortness of breath, cough, chest pains, palpitations, or orthopnea.

- Gastrointestinal - nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.
- Neurologic - irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbance in gait, difficulty in climbing stairs, or seizures.
- Hematologic - pallor, easy fatigability, abnormal blood loss, melena.
- Reproductive (male or female and spouse where relevant) - history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.
- Musculo-skeletal - muscle and joint pains.

(G) The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

(H) The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

(I) A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

(J) Cranial nerve evaluation should also be included in the routine examination.

(K) The abdominal examination should include auscultation for bowel sounds and abnormal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

(L) Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

(M) As part of the medical evaluation, the lead standard requires the following laboratory studies.

(I) Blood lead level.

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology.

(III) Blood urea nitrogen.

(IV) Serum creatinine.

(V) Routine urinalysis with microscopic examination.

PROPOSED

(VI) A zinc protoporphyrin level.

(N) In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

(O) Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

(P) If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

(Q) If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

(R) If renal disease is questioned, a 24-hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

(S) An electrocardiogram and chest x-ray may be obtained as deemed appropriate.

(T) Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

(v) Laboratory evaluation.

(A) The blood level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

(B) This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

(C) The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90 percent of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidneys, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable stores and excreted. Consequently, a high blood lead level may only represent recent heavy

exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

(D) Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

(E) To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Analysis is to be made using atomic absorption spectrophotometry anodic stripping; voltammetry or any method which meets the accuracy requirements set forth by the standard.

(F) The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

(G) The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding three to four months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

(H) Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes place in the iron, forming ZPP.

(I) An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20-30  $\mu\text{g}/100\text{g}$  in some workers. Once the blood lead level has reached 40  $\mu\text{g}/100\text{g}$  there is more marked rise in the ZPP value from its normal range of less than 100  $\mu\text{g}/100\text{ml}$ . Increases in blood lead levels beyond 40  $\mu\text{g}/100\text{g}$  are associated with exponential increases in ZPP.

(J) Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day lifespan. Therefore, the ZPP level in blood reflects the average ZPP production over the previous three to four months and consequently the average lead exposure during that time interval.

(K) It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50  $\mu\text{g}/100\text{ml}$  whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 $\mu\text{g}/100\text{ml}$  and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure the blood leads were determined using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard, by a CDC approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

(L) ZPP has characteristic fluorescence spectrum with a peak at 594nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

(M) However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead - ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in item (ii) are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

(N) Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

(O) The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, protobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000  $\mu\text{g}/1$  in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

(vi) Summary.

(A) The WISHA standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30  $\mu\text{g}/\text{m}^3$  TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

(B) Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful

and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

(C) This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects.

(D) It is hoped that this review and discussion will give the physician a better understanding of the WISHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

(d) Appendix D. Qualitative Fit Test Protocols. This appendix specifies the only allowable qualitative fit test (QLFT) protocols permissible for compliance with WAC 296-62-07521 (7)(c)(ii).

(i) Isoamyl acetate protocol.

(A) Odor threshold screening.

(I) Three 1-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(II) Odor-free water (e.g., distilled or spring water) at approximately 25° C shall be used for the solutions.

(III) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(IV) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but may not be connected to the same recirculating ventilation system.

(V) The odor test solution is prepared in a second jar by placing .4 cc of the stock solution into 500 cc of odor-free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(VI) A test blank is prepared in a third jar by adding 500 cc of odor-free water.

(VII) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically dried off and switched to avoid people thinking the same jars always has the IAA.

(VIII) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2); "The purpose of this test is to determine if you can smell banana oil at low concentrations. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(IX) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(X) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA QLFT may not be used.

(XI) If the test subject correctly identifies the jar containing the odor test solution he or she may proceed to respirator selection and fit testing.

(B) Respirator selection.

(I) The test subject shall be allowed to select the most comfortable respirator from a large array of various sizes and manufacturers that includes at least three sizes of elastomeric half facepieces and units of at least two manufacturers.

(II) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to assess a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This may not constitute formal training on respirator use, only a review.

(III) The test subject should understand that he or she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly, will provide adequate protection.

(IV) The test subject holds each facepiece up to his or her face and eliminates those which are obviously not giving a comfortable fit. Normally, selection will begin with a half-mask and if a fit cannot be found here, the subject will be asked to go to the full facepiece respirators. (A small percentage of users will not be able to wear any half-masks.)

(V) The more comfortable facepieces are recorded; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (VI) below. If the test subject is not familiar with using a particular respirator, he or she shall be directed to don the mask several times and to adjust the straps each time, so that he or she becomes adept at setting proper tension on the straps.

(VI) Assessment of comfort shall include reviewing the following points with the test subject:

- Chin properly placed.
- Positioning of mask on nose.
- Strap tension.
- Fit across nose bridge.
- Room for safety glasses.
- Distance from nose to chin.
- Room to talk.
- Tendency to slip.
- Cheeks filled out.
- Self-observation/in mirror.
- Adequate time for assessment.

(VII) The test subject shall conduct the conventional negative and positive-pressure fit checks (e.g., see ANSI Z88.2-1980). Before conducting the negative or positive-pressure checks, the subject shall be told to "seat" his or her mask by rapidly moving the head side-to-side and up and down, taking a few deep breaths.

(VIII) The test subject is now ready for fit testing.

(IX) After passing the fit test, the test subjects shall be questioned again regarding the comfort of the respirator. If

it has become uncomfortable, another model of respirator shall be tried.

(X) The employee shall be given the opportunity to select a different facepiece and be retested if during the first two weeks of on-the-job wear, the chosen facepiece becomes unacceptably uncomfortable.

(C) Fit test.

(I) The fit test chamber shall be substantially similar to a clear 55 gallon drum liner suspended inverted over a two foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(II) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(III) After selecting, donning, and properly adjusting a respirator himself or herself, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hook, to prevent general room contamination.

(IV) A copy of the following test exercises and rainbow (or equally effective) passage shall be taped to the inside of the test chamber:

- a) Normal breathing.
- b) Deep breathing. Be certain breaths are deep and regular.
- c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.
- d) Nodding head up-and-down. Be sure certain motions are complete and made about every second. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.
- e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

f) Normal breathing.

(V) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(VI) Upon entering the test chamber, the test subject shall be given a six inch by five inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject will hang the wet towel on the hook at the top of the chamber.

(VII) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This

would be an appropriate time to talk with the test subject, to explain the fit test, the importance of his or her cooperation, the purpose of the head exercises, or to demonstrate some of the exercises.

(VIII) Each exercise described in segment (IV) above shall be performed for at least one minute.

(IX) If at any time during the test, the subject detects the banana-like odor of IAA, he or she shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(X) Upon returning to the selection room, the subject shall remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, etc. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(XI) If a person cannot be fitted with the selection of half-mask respirators, include full facepiece models in the selection process. When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having him break the face seal and take a breath before exiting the chamber.

(XII) When the test subject leaves the chamber he or she shall remove the saturated towel, returning it to the test conductor. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag. There is no significant IAA concentration buildup in the test chamber from subsequent tests.

(XIII) Persons who have successfully passed this fit test may be assigned the use of the tested respirator in atmospheres with up to ten times the PEL of airborne lead. In other words this IAA protocol may be used to assign a protection factor no higher than ten.

(ii) Saccharin solution aerosol protocol.

(A) Taste threshold screening.

(I) Threshold screening as well as fit testing employees shall use an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movement of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly of part #FT 14 and FT 15 combined is adequate.

(II) The test closure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(III) The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(IV) The test subject shall don the test enclosure. For the threshold screening test, he or she shall breathe through his or her open mouth with tongue extended.

(V) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(VI) The threshold check solution consists of 0.83 grams of sodium saccharin(=) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see (C)(VI) below) in 100 cc of water.

(VII) To produce the aerosol the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(VIII) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(IX) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(X) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(XI) The test conductor will take note of the number of squeezes required to elicit a taste response.

(XII) If the saccharin is not tasted after thirty squeezes (Step (A)(IX)) the test subject may not perform the saccharin fit test.

(XIII) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(XIV) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(XV) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(B) Respirator selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with a particulate filter cartridge.

(C) Fit test.

(I) The fit test uses the same enclosure described in (i)(B)(I) and (II) above.

(II) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(III) The test subject shall don the enclosure while wearing the respirator selected on Section (A) above. The respirator shall be properly adjusted and equipped with a particulate filter cartridge.

(IV) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(V) A second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(VI) The first test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(VII) As before, the test subject shall breathe through the open mouth with tongue extended.

(VIII) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (A)(X) above.)

(IX) After generation of the aerosol the test subject shall be instructed to perform the following exercises for one minute each.

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up-and-down. Be certain motions are complete. Alert the test subject not to bump the respirator

on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(X) Every thirty seconds, the aerosol concentration shall be replenished using one-half the number of squeezes as initially (C)(VIII).

(XI) The test subject shall so indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(XII) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(XIII) Successful completion of the test protocol shall allow the use of the tested respirator in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors no higher than ten.

(iii) Irritant fume protocol.

(A) Respirator Selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with high efficiency cartridges.

(B) Fit Test.

(I) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize him or her with its characteristic odor.

(II) The test subject shall properly don the respirator selected as above, and wear it for at least ten [ten] minutes before starting the fit test.

(III) The test conductor shall review this protocol with the test subject before testing.

(IV) The test subject shall perform the conventional positive pressure and negative pressure fit checks. Failure of either check shall be cause to select an alternate respirator.

(V) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(VI) Advise the subject that the smoke can be irritating to the eyes and instruct him or her to keep his or her eyes closed while the test is performed.

(VII) The test conductor shall direct the stream of irritant smoke from the tube toward the face seal area of the test subject. The conductor shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(VIII) The following exercises shall be performed while the respirator seal is being challenged by the smoke. Each shall be performed for one minute.

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up-and-down. Be certain motions are complete. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking—slowly and distinctly, count backwards from 100.

f) Normal breathing.

(IX) If the irritant smoke produces an involuntary reaction (cough) by the test subject, the test conductor shall stop the test. In this case the tested respirator is rejected and another respirator shall be selected.

(X) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube to determine whether he or she reacts to the smoke. Failure to evoke a response shall void the test.

(XI) Steps (B)(IV), (VII), and (VIII) of this protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the irritant smoke.

(XII) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors not exceeding ten.

(e) Appendix E: Recommendations to employers concerning high-risk tasks (nonmandatory).

The department advises employers that the following tasks have a high risk for lead overexposure (this list is not complete; other tasks also can result in lead over-exposure):

- Any open flame operation involving lead-containing solder in a manner producing molten solder, including the manufacture or repair of motor vehicle radiators;
- Sanding, cutting or grinding of lead-containing solder;
- Breaking, recycling or manufacture of lead-containing batteries;
- Casting objects using lead, brass, or lead-containing alloys;
- Where lead-containing coatings or paints are present:
  - abrasive blasting
  - welding
  - cutting
  - torch burning
  - manual demolition of structures
  - manual scraping
  - manual sanding
  - heat gun applications
  - power tool cleaning
  - rivet busting



- clean-up activities where dry expendable abrasives are used
- abrasive blasting enclosure movement and removal;
- Spray-painting with lead-containing paint;
- Using lead-containing mortar;
- Lead burning;
- Operation or cleaning of shooting facilities where lead bullets are used;
- Formulation or processing of lead-containing pigments or paints;
- Cutting, burning, or melting of lead-containing materials.

The department recommends that annual blood lead testing be offered to all employees potentially overexposed to lead, including those performing the tasks listed above, regardless of air lead levels. Research has shown that air lead levels often do not accurately predict workers' lead overexposure. The blood lead testing will provide the most information if performed during a period of peak lead exposure.

Employers should be aware that the United States Public Health Service has set a goal of eliminating occupational exposures which result in whole blood lead levels of 25 µg/dl or greater. This goal should guide whether employees' blood lead levels indicate lead overexposure.

If blood lead levels are elevated in an employee performing a task associated with lead overexposure, employers should assess the maintenance and effectiveness of exposure controls, hygiene facilities, respiratory protection program, the employee's work practices and personal hygiene, and the employee's respirator use, if any. If a deficiency exists in any of these areas, the employer should correct the problem.

**AMENDATORY SECTION** (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-62-07533 Appendix E qualitative and quantitative fit testing procedures.** Fit test protocols.

(1) The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT).

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece; and units from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size

and shape, and if fitted and used properly, will provide adequate protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (i) Position of the mask on the nose;
- (ii) Room for eye protection;
- (iii) Room to talk; and
- (iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (i) Chin properly placed;
- (ii) Adequate strap tension, not overly tightened;
- (iii) Fit across nose bridge;
- (iv) Respirator of proper size to span distance from nose to chin;

(v) Tendency of respirator to slip; and  
(vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in

respiratory disease or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall certify that a successful fit test has been administered to the employee. The certification shall include the following information:

- (i) Name of employee;
- (ii) Type, brand, and size of respirator; and
- (iii) Date of test.

Where QNFT is used, the fit factor, strip chart, or other recording of the results of the test, shall be retained with the certification. The certification shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as exercise in (n)(i) of this subsection.

Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds.

The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion

of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(iii) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening.

The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor free water (e.g., distilled or spring water) at approximately twenty-five degrees C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off, and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hand the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banana like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Saccharin solution aerosol protocol. The saccharin solution aerosol QLFT protocol is the only currently available, validated test protocol for use with particulate dis-

able dust respirators not equipped with high-efficiency filters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts NZ FT 14 and NZ FT 15 combined, is adequate.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure: This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in ((+)) 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (c)(ii)(E) of this subsection) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after thirty squeezes (subitem (J)), the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(B) The fit test uses the same enclosure described in (c)(i) of this subsection.

(C) The test subject shall don the enclosure while wearing the respirator selected in (c)(i) of this subsection. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in subsection (1)(h) of this section.

(I) Every thirty seconds the aerosol concentration shall be replenished using one-half the number of squeezes as initially.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(d) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests

properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) "Quantitative fit test." The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(ii) "Challenge agent" means the aerosol, gas, or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Maximum peak penetration method" means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) "Average peak penetration method" means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator

for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(C) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration; or

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

**WAC 296-62-07550 Appendix E—Qualitative and quantitative fit testing procedures.** FIT test protocols. Because exposure to formaldehyde can affect the employee's ability to detect common odorants, fit test results from the isoamyl acetate test must be augmented by results from either the saccharin or irritant smoke test.

(1) The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT).

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection

PROPOSED

shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece; and units from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (i) Position of the mask on the nose;
- (ii) Room for eye protection;
- (iii) Room to talk;
- (iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (i) Chin properly placed;
- (ii) Adequate strap tension, not overly tightened;
- (iii) Fit across nose bridge;
- (iv) Respirator of proper size to span distance from nose to chin;
- (v) Tendency of respirator to slip;
- (vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or in the latest edition of ANSI Z88.2. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side to side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall certify that a successful fit test has been administered to the employee. The certification shall include the following information:

- (i) Name of employee;
- (ii) Type, brand, and size of respirator; and
- (iii) Date of test.

Where QNFT is used, the fit factor, strip chart, or other recording of the results of the test, shall be retained with the certification. The certification shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure.

The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loudly enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the

Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as (n)(i) of this subsection.

(A) Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds.

(B) The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that the equipment is in proper working order.

(iii) The employer shall assure the QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor-free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a one-liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor-free water using a clear dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor-free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contain a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half, and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banalike odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall

wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Saccharin solution aerosol protocol. The saccharin solution aerosol QLFT protocol is the only currently available, validated test protocol for use with particulate disposable dust respirators not equipped with high-efficiency filters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts NZ FT 14 and NZ FT 15 combined, is adequate.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in ((+)) 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (c)(ii)(E) of this subsection) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after thirty squeezes, the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(B) The fit test uses the same enclosure described in (c)(i) of this subsection.

(C) The test subject shall don the enclosure while wearing the respirator selected in (c)(i) of this subsection. The respirator shall be properly adjusted and equipped with a particular filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in subsection (1)(n) of this section.

(I) Every thirty seconds the aerosol concentration shall be replenished using one-half the number of squeezes as initially used.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(d) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) If a half-mask is being fitted, advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.



(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) "Quantitative fit test." The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agency is a gas or vapor.

(ii) "Challenge agent" means the aerosol, gas, or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Maximum peak penetration method" means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) "Average peak penetration method" means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent

concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT

time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonable stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and of the end of the test.

(c) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration;

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

**AMENDATORY SECTION** (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

**WAC 296-62-07668 Appendix E-1-b—Saccharin solution aerosol protocol.** (1) Respirator selection. Respirators shall be selected as described in WAC 296-62-07666(2) Appendix E-1-a (respirator selection), except that each respirator shall be equipped with a particulate filter.

(2) Taste threshold screening.

(a) An enclosure placed over the head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(b) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(c) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(d) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(e) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(f) The threshold check solution consists of 0.83 grams of sodium saccharin(±) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see subdivision (3)(g)) in 100 cc of water.

(g) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(h) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(i) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(j) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(k) The test conductor will take note of the number of squeezes required to elicit a taste response.

(l) If the saccharin is not tasted after 30 squeezes, subdivision (j), the saccharin fit test cannot be performed on the test subject.

(m) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(n) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(o) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(3) Fit test.

(a) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(b) The test subject shall don and adjust the respirator without assistance from any person.

(c) The fit test uses the same enclosure described in subsection (2) of this section.

(d) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(i) This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(ii) The test subject shall perform the conventional negative- or positive-pressure fit tests (see ANSI Z88.2 1980 A7).

(e) The test subject shall enter the enclosure while wearing the respirator selected in WAC 296-62-07666(2). This respirator shall be properly adjusted and equipped with a particulate filter.

(f) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(g) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(h) As before, the test subject shall breathe with mouth open and tongue extended.

(i) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See subdivisions (2)(h) through (j).)

(j) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(v) Talk. Talk aloud and slowly. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement.

**Rainbow Passage:** When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(k) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in subdivision (i) of this subsection.

(l) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(m) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(n) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 10 times the PEL of MDA. In other words this protocol may not be used to assign protection factors higher than ten.

(o) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(p) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(q) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(r) Qualitative fit testing shall be repeated at least every 12 months.

(s) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures;

(iv) Reconstructive or cosmetic surgery; or

(v) Any other condition that may interfere with facepiece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

(a) Name of test subject.

(b) Date of testing.

(c) Name of test conductor.

(d) Respirators selected (indicate manufacturer, model, size, and approval number).

(e) Testing agent.

#### AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

#### **WAC 296-62-07739 Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.** (1) Qualitative fit test protocols.

(a) Isoamyl acetate protocol.

(i) Odor threshold screening:

(A) Three one-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding one cc of pure IAA to eight hundred cc of odor free water in a one-liter jar

and shaking for thirty seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into five hundred cc of odor free water using a clean dropper or pipette. Shake for thirty seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding five hundred cc of odor free water.

(G) The odor test and test blank jars shall be labelled one and two for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., one and two): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to

test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(I) Positioning of mask on nose.

(II) Room for eye protection.

(III) Room to talk.

(IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

(I) Chin properly placed.

(II) Strap tension.

(III) Fit across nose bridge.

(IV) Distance from nose to chin.

(V) Tendency to slip.

(VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and "rainbow passage" shall be taped to the inside of the test chamber:  
Test exercises.

- (I) Breathe normally.
- (II) Breathe deeply. Be certain breaths are deep and regular.
- (III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.
- (IV) Nod head up and down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test

subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 2 f/cc of airborne asbestos.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of the test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(b) Saccharin solution aerosol protocol.

(i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.

(ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately twelve inches in diameter by fourteen

inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin((?)) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in one hundred cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after thirty squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink, (except plain water), or chew gum for fifteen minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to one hundred cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the saccharin test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 2 f/cc of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the face-piece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with face-piece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(c) Irritant fume protocol.

(i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a high-efficiency cartridge.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver two hundred milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the faceal area of the test

subject. The person conducting the test shall begin with the tube at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Repeating it after the test conductor (keeping eyes closed) will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the irritant fume test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to 2 f/cc of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-

pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the face-piece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with face-piece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent

concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the respirator shall be equipped with a cartridge or canister approved for removal of the test agent, or with a high efficiency particulate filter. Only approved assemblies shall be tested.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed two seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, North M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least five minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be



unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half-mask and one percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(v) Reading (R). The test subject (keeping eyes closed) shall repeat after the test conductor the "rainbow passage" at the end of this section. The subject shall talk slowly and aloud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least fifteen seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least thirty seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least thirty seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds five percent for half-masks and one percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(g) Calculation of fit factors.

(i) The fit factor is determined by dividing the average challenge agent concentration in the test chamber by the average challenge agent concentration inside the respirator facepiece for the test exercise.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three fit factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of one hundred or one thousand, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

(A) Name.

(B) Date of fit test.

(C) Fit factor obtained for each manufacturer, model and approval number of respirator tested.

(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of twenty pounds or more,

(ii) Significant facial scarring in the area of the face-piece seal,

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(iv) Reconstructive or cosmetic surgery, or

(v) Any other condition that may interfere with face-piece sealing.

(k) Recordkeeping.

A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

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

**WSR 96-03-025**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
[Filed January 8, 1996, 11:20 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 139-01-810 Review and appeal of action (student dismissals).

Purpose: Provide a procedure to govern appeals from staff dismissals of students.

Statutory Authority for Adoption: RCW 43.101.080(2).

Statute Being Implemented: RCW 43.101.080.

Summary: Amends WAC governing agency hearings to: (a) Narrow its scope; (b) conform it to the Administrative Procedure Act (APA) in regard to the identity of the

hearing officer; (c) provide internal time limits for seeking review at certain intermediate stages of the review process.

Reasons Supporting Proposal: The existing WAC: (a) Is too broad in its scope, thus exposing the commission to excessive administrative litigation; (b) does not conform to the APA in its designation of the executive director as a hearing officer; and (c) lacks necessary internal time limits for seeking review at certain intermediate stages of the review process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James C. Scott, Lacey, (360) 459-6342.

Name of Proponent: Criminal Justice Training Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency proposed rule amendment.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule as revised provides for review of students' dismissals from the training commission academies. There is a thirty-day limitations period for a dismissed student to file for review. The initial review is by an administrative law judge (ALJ). Following communication of the ALJ's decision, either staff or the appealing party has thirty days to seek review by the full commission. The commission will review the record made before the ALJ, will consider arguments of the parties, and will issue a final decision which will be subject to appeal to superior court.

Proposal Changes the Following Existing Rules: The proposed amendments change the existing rule most significantly as follows: (a) The existing rule does not limit the time within which an appeal from staff action must be filed; the amendment places a thirty-day limitations period on such appeals; (b) the existing rule provides for an initial review proceeding to be conducted by the commission's executive director; the proposed amendment would substitute an administrative law judge in this role; (c) the existing rule does not place a time limit on a petition for review of an initial decision; the proposed amendment places a thirty-day limitations period on such petitions for review; (d) the existing rule does not place a time limit on the commission's issuance of a final decision following the meeting in which argument is heard on the appeal; the proposed amendment places a thirty-day time limit on the commission for the issuance of the final decision.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will have a negligible, if any, economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Pursuant to subsection (5)(b)(2) of section 201, this rule is exempt from section 201 because the rule relates only to internal governmental operations that are not subject to violation by a nongovernment party.

Hearing Location: Washington State Training and Conference Center, 19010 1st Avenue South, Seattle, WA, on March 14, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ron Stanley by March 11, 1996, (206) 439-3740, ext. 215.

Submit Written Comments to: James C. Scott, FAX (206) 459-6347, by February 26, 1996.

Date of Intended Adoption: March 14, 1996.

January 4, 1996  
James C. Scott  
Executive Director

AMENDATORY SECTION (Amending Order 1-B, filed 9/10/86)

**WAC 139-01-810 Review and appeal of action.** (1)

~~((Any action which directly and adversely affects an individual's interest under this title or chapter 43.101 RCW))~~  
Unless otherwise provided in this title, student dismissal for academic or disciplinary reasons may be reviewed at the request of such individual, or the head of such individual's employing agency, and shall be considered in accordance with the process hereinafter provided. This section shall not apply to a request for a variance or exemption pursuant to WAC 139-01-820.

(2) An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable:

(a) The action for which review is requested, identified by date and description of action;

(b) The direct and adverse effects of such action;

(c) The corrective or remedial action or other relief sought;

(d) The name and mailing address of the requesting party, any witness to be called by the requesting party, and any person who will personally appear in support of the requesting party, including legal counsel; and

(e) A statement that the person signing the request for review has read it and that to the best of his or her knowledge or information and belief the contents thereof are true.

~~(3) ((Upon receipt of a request for review which satisfies the requirements of subsection (2) of this section, the executive director shall conduct the review within thirty days.~~

~~(4) In conducting the review, the executive director may consider any information or testimony determined to be relevant to full consideration of the matter for which review is requested. At least five days prior to the review proceeding, commission staff shall provide to the individual requesting review a complete listing of those individuals who are expected to provide testimony and a copy of any document or other written material which will be offered. If a request is made by commission staff, the individual requesting review shall, at least five days prior to the review proceeding, provide to the commission a complete listing of those individuals who are expected to provide testimony and a copy of any document or any other material which will be offered. At the time of the proceeding, additional witnesses and written materials may be offered by staff or the requesting party, but only if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. Each review proceeding shall be recorded electronically. Thereafter, such recording shall be transcribed in writing if requested by the appealing party or if directed by the commission or staff.~~

(5) After full consideration of the matter, the executive director shall affirm, rescind, or modify the action for which review is requested and shall give written notice of his decision to the individual requesting review. Such decision

~~of the executive director shall become final unless a written appeal is received by the commission within thirty days of the receipt of such notice. Appeal of such determination may be taken to the training commission at its next scheduled meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency, unless there is insufficient time to permit administration of the appeal, in which case the appeal will be considered at the next succeeding scheduled meeting of the commission. In considering such appeal, the commission shall not be bound by any previous action or determination and may take any action it deems necessary and appropriate to the matter. The commission may consider only the record of the matter consisting of the transcript of the review proceeding and any written material considered by the executive director, as well as any information requested or deemed relevant by the commission chairperson. A complete copy of such record shall be provided to the appellant at least five days prior to the appeal proceeding before the commission. Additional written materials may be submitted at the time of the appeal proceeding by staff or the requesting party if there is a showing of good cause for the failure to provide prior notice of such additional written evidence. Oral arguments by the appellant or the appellant's representative shall be allowed, subject to time limitations set by the chairperson of the commission.))~~  
A request for review must be mailed to or personally served upon the director of the commission within thirty days of the date of written communication of commission staff action. "Mailing" for purposes of this regulation means posting in the United States mail, properly addressed, postage prepaid.

(4) A requesting party may notify the director of the commission within seven days of filing the request for a hearing that the requesting party chooses to first meet with the executive director and ask him or her to informally review the staff action. The executive director will conduct such informal review within thirty days of such request for informal review or within such additional period as is agreed to between the requesting party and the executive director. If the executive director then affirms staff action, or if the requesting party elects to forgo this informal review step, the matter will proceed to a formal hearing by an administrative law judge from the state office of administrative hearings. The administrative law judge will:

(a) Schedule and conduct an adjudicative proceeding under chapter 34.05 RCW; and

(b) Issue an initial decision of the commission in the matter.

The commission staff or the requesting party may then pursue review by the commission subject to the time limits and any other jurisdictional requirements of chapter 34.05 RCW and of this section.

(5) A petition for review of the initial decision must be filed with the commission within thirty days of mailing of the initial decision to the parties. Extensions of the time for filing petitions for review may be granted for good cause shown in the discretion of the chairperson of the commission on timely written request of a party. The petition for review shall set forth in detail the grounds for review, and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth

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therein. At the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted, the commission shall consider the whole record, or such portions of it as are cited by the parties. The commission shall afford the parties an opportunity to present written argument, and may, as a matter of discretion, allow oral argument. Thereafter, a final decision shall be entered within thirty days of the meeting, either finally disposing of the action or remanding the matter for further proceedings before the initial reviewer.

**WSR 96-03-026**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 8, 1996, 2:35 p.m.]

Continuance of WSR 95-15-118.

Preproposal statement of inquiry was filed as WSR 94-20-121.

Title of Rule: Safety standard for fire fighters.

Purpose: To continue the adoption date.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Date of Intended Adoption: March 1, 1996.

January 8, 1996

Mark O. Brown

Director

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-001 ((Foreword:)) ((These fire fighter safety and health standards were adopted by the department of labor and industries in accordance with the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW), following extensive research and pursuant to the recommendations of an advisory committee made up of representatives of fire fighting personnel and their employers.~~

~~The purpose of this chapter is to assist employers and employees in the reduction of work related injuries and illness. In addition to providing an enforceable set of safety and health standards for the fire protection service, it is the intent of the department that the provisions of this chapter be used to assist both employers and employees in achieving the safest workplaces reasonably attainable under the conditions to which employees are or will be exposed.))~~  
Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-003 ((Effective date:)) ((Unless a particular provision of this chapter specifies otherwise, the effective date of chapter 296-305 WAC, shall be \*(December 17, 1977:))~~  
Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

~~WAC 296-305-005 ((Scope and application:)) ((1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).~~

~~(2) The provisions of this chapter apply to all work places where fire fighters are employed, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards which occur at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a fire fighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.~~

~~(3) The provisions of this chapter shall be supplemented by the provisions of the safety and health standards of the department of labor and industries, chapters 296-24 and 296-62 WAC. In the event of conflict between any provisions of this chapter and any provision of either of the two chapters last cited, the provisions of this chapter shall apply. The requirements of this chapter shall be reviewed by the appropriate labor management committee at least every two years:))~~  
Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

~~WAC 296-305-007 ((Definitions:)) ((Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.~~

~~(1) Aerial ladder: A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.~~

~~(2) Aerial platform: A device consisting of two or more booms or sections with a passenger carrying platform assembly.~~

~~(3) Aerial tower: Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.~~

~~(4) Ancillary clothing: Outer garments auxiliary or supplemental to other protective clothing provided for fire fighters.~~

~~(5) ANSI: American National Standards Institute.~~

~~(6) Apparatus: A mobile piece of fire fighting equipment such as pumper, aerial, tanker, etc.~~

~~(7) Approved: A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person or organization authorized to make such a judgment.~~

~~(8) Bag mask: A hand operated device consisting of a bellows type bag and a face piece used to administer artificial respiration to an individual.~~

~~(9) Beacon: A flashing or rotating light.~~

~~(10) Chief: An employer representative responsible for the fire department's operation.~~

~~(11) City service apparatus: An all purpose apparatus which carries ground ladders as well as forceable entry tools, salvage and overhaul equipment, and fire fighters.~~

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(12) ~~Combat scene:~~ The site where the suppression of a fire or emergency exists.

(13) ~~dBA:~~ A measure of noise level expressed as decibels measured on the "A" scale.

(14) ~~Deck pipe:~~ A permanently mounted device which delivers a large stream of water.

(15) ~~Decontamination:~~ A process by which hazardous substances are removed from protective clothing and equipment of personnel exposed to those substances.

(16) ~~Department:~~ Department of labor and industries.

(17) ~~Director of fire department:~~ The chief or principle administrator of the fire department.

(18) ~~Drill tower:~~ A structure which may or may not be attached to the station and which is principally used for training fire fighters in fire service techniques.

(19) ~~Employee:~~ An employee of an employer who is employed in the business of his employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his personal labor for an employer under this chapter whether by way of manual labor or otherwise.

(20) ~~Employer:~~ Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

(21) ~~Employer representative:~~ A fire department officer authorized by the chief or director to act in his behalf.

(22) ~~Engine (pumper):~~ A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

(23) ~~Explosion proof:~~ Capable of withstanding an explosion of a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that a surrounding flammable atmosphere will not be ignited thereby.

(24) ~~Fastest means available:~~ The (nearest closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.

(25) ~~Fire combat training:~~ Training received by fire fighters on the drill ground, drill tower, or industrial site to maintain the fire fighter's proficiency.

(26) ~~Fire fighter:~~ An officer or any employee who by virtue of his position in a fire department has a duty to engage in the fighting and extinguishment of fires.

(27) ~~Fire retardant:~~ A material to reduce, stop or prevent the flame spread.

(28) ~~Foot stand, ladder:~~ Devices attached to inside of beams of ladders that when folded down, provide foot space.

(29) ~~Fly:~~ Extendable sections of ground or aerial ladders.

(30) ~~Hazardous condition:~~ The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

(31) ~~Hazardous substances:~~ Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

(32) ~~HEPA filtration:~~ High efficiency particulate air filtration found in vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

(33) ~~Hose bed:~~ Portion of fire apparatus where hose is stored.

(34) ~~Hose tower:~~ A vertical enclosure where hose is hung to dry.

(35) ~~Industrial fire brigade:~~ An organized group of employees whose primary employment is other than fire fighting; who are knowledgeable, trained and skilled in the safe evacuation of employees during emergency situations, and in assisting in fire fighting operations.

(36) ~~Jack, ground:~~ Heavy jacks attached to frame of chassis of the aerial equipped apparatus to provide stability when the aerial portion of the apparatus is used.

(37) ~~Ladder company:~~ The fire company manning an aerial ladder truck and especially trained in ladder work, ventilation, rescue, forcible entry, salvage and related tasks.

(38) ~~Ladder pipe:~~ A heavy stream nozzle attached to an aerial ladder usually supplied by a 3 inch hose from a Siamese intake at ground level.

(39) ~~Life line:~~ Length of rope to which employees and employer representatives are secured when in extremely hazardous areas.

(40) ~~Life line gun:~~ A gun designed to shoot a rope line, for rescue, to persons in distress such as in water, canyons, on cliffs and buildings, etc.

(41) ~~Life net:~~ A rescue item, commonly carried on ladder trucks, consisting of heavy canvas supported by a folding metal frame and springs and containing a pad to soften impact.

(42) ~~Live fire training:~~ Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.

(43) ~~Locking in:~~ The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

(44) ~~Manned station:~~ A fire station continuously occupied by fire fighters on scheduled work shifts. The manned station may also serve as headquarters for volunteers.

(45) ~~MESA:~~ Mining Enforcement and Safety Administration.

(46) ~~Monitor:~~ A portable device which delivers a large stream of water.

(47) ~~NFPA:~~ National Fire Protection Association.

(48) ~~NIOSH:~~ National Institute of Occupational Safety and Health.

(49) ~~Nondestructive testing:~~ A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.

(50) ~~Nonskid:~~ The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

(51) ~~Overhauling:~~ That portion of fire extinguishment involving discovery of hidden fires or smoldering material.

(52) ~~Outrigger:~~ Manually or hydraulically operated metal enclosures and jacks which are extended and placed in

contact with the ground to give the apparatus a wide, solid base to support different loads.

(53) ~~Place of employment:~~ Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control.

(54) ~~Platform:~~ The portion of a telescoping or articulating boom used as an elevated working surface.

(55) ~~Pole hole:~~ An opening in a floor through which a pole passes and employees slide to get from one floor to another.

(56) ~~Pompier ladder:~~ Ladder constructed with a single spar to which a hook is attached on one end and rungs attached to the spar.

(57) ~~Prefire training:~~ The training of fire fighters in recognizing sources and locations of potential fires and the method of fire combat to be used.

(58) ~~Probable fatality:~~ An injury which by the doctor's prognosis could lead to death.

(59) ~~Pumper (engine):~~ An apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

(60) ~~Qualified:~~ One who by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training or experience has successfully demonstrated his ability to solve or resolve problems related to the subject matter, the work or the project.

(61) ~~RCW:~~ Revised Code of Washington.

(62) ~~Respiratory equipment:~~ Self contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.

(a) ~~Respirators (closed circuit):~~ Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

(b) ~~Respirators (open circuit):~~ Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

(c) ~~Respirators (demand):~~ Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

(d) ~~Respirators (pressure demand):~~ Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

(63) ~~Responding:~~ The act of answering an emergency call or other alarm.

(64) ~~Safe and healthful working environment:~~ The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

(65) ~~Safety net:~~ A rope or nylon strap net not to exceed 6 inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

(66) ~~Safety officer:~~ Employer representative as assigned by chief of fire department.

(67) ~~Scabbard:~~ A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.

(68) ~~Shall:~~ Means mandatory.

(69) ~~Should:~~ Means recommended.

(70) ~~Siamese:~~ A hose appliance having two or more female inlets with one male outlet.

(71) ~~Signalman:~~ A person so positioned that he can direct an activity, such as apparatus entering or leaving a fire station, where the operator's vision is obstructed or obscured.

(72) ~~Station (fire station):~~ Structure in which fire service apparatus and/or personnel are housed.

(73) ~~Tailboard:~~ Standing space on the side or rear of an engine or pumper apparatus where fire fighters ride.

(74) ~~Tillerman:~~ Rear driver of tractor trailer aerial ladder.

(75) ~~Turnout clothing:~~ Outer garments worn by fire fighters for personal protection consisting of helmet, gloves, coat and pants with vapor and thermal barrier liners, and boots.

(76) ~~Turntable:~~ The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

(77) ~~Unmanned station:~~ A station serving as headquarters for volunteer fire fighters which may or may not be attended by a chief or other officials responsible for directing the company's activities.

(78) ~~Volunteer:~~ Individual other than a fully paid fire fighter whose primary employment is other than fire fighting.

(79) ~~Wheel blocks (chocks):~~ A block or wedge placed under a wheel to prevent motion.

(80) ~~Work environment:~~ The surrounding conditions, influences or forces to which an employee is exposed while working.

(81) ~~Work place:~~ Any plant, yard, premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.) Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-010 ((Variance and procedure.))**  
 ((Realizing that conditions may exist in operations under which certain state standards will not have practical application, the director of the department of labor and industries or his authorized representative may, pursuant to this section, RCW 49.17.080 and/or 49.17.090 and appropriate administrative rules of this state and the department of labor and industries and upon receipt of application and after adequate investigation by the department, permit a variation from these requirements when other means of providing an equivalent measure of protection are afforded. Such variation granted shall be limited to the particular case or cases covered in the application for variance and may be revoked for cause. The permit for variance shall be conspicuously posted on the premises and shall remain posted during the time it is in effect. All requests for variances from safety

~~and health standards included in this or any other chapter of Title 296 WAC, shall be made in writing to the director of the department of labor and industries at Olympia, Washington, or his duly authorized representative, the assistant director, division of industrial safety and health, department of labor and industries, Olympia, Washington. Variance application forms may be obtained from the department upon request.)) Reserved.~~

#### NEW SECTION

**WAC 296-305-01001 Foreword.** These fire fighter safety and health standards were adopted by the department of labor and industries in accordance with the provisions of the Washington Industrial Safety and Health Act (WISHA) of 1973 (chapter 49.17 RCW), with recommendations from the fire service advisory committee.

The purpose of this chapter is to assist employers and employees in the reduction of work related injuries and illnesses by providing a set of minimum safety and health standards to assist in achieving a safe and healthful work environment for the fire protection service.

#### NEW SECTION

**WAC 296-305-01002 Effective date.** Unless a particular provision of this chapter specifies otherwise, the effective date of chapter 296-305 WAC, shall be April 1, 1996.

#### NEW SECTION

**WAC 296-305-01003 Scope and application.** (1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all fire fighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a fire fighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated as to adaptability to the Washington State Fire Service industry. Where adaptable and meaningful, the fire fighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, shall be considered as the fire fighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments shall have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments shall meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland fire fighting and other rules in the chapter, only the rules regulating wildland fire fighting shall apply to wildland fire fighting activities and equipment.

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries, chapters 296-24 (including Part G-2, Fire protection) and 296-62 WAC. In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply.

#### NEW SECTION

**WAC 296-305-01005 Definitions.** Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

**Accident:** An unexpected event that interrupts or interferes with the orderly progress of the fire department operations and may or may not include personal injury or property damage.

**Accountability system:** A system of fire fighter accountability that provides for the tracking and inventory of all members.

**ACGIH:** American Conference of Governmental Industrial Hygienists.

**Aerial ladder:** A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.

**Aerial tower:** Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.

**Aerial platform:** A device consisting of two or more booms or sections with a passenger carrying platform assembly.

**ANSI:** American National Standards Institute.

**Apparatus:** A mobile piece of fire equipment such as a pumper, aerial, tender, automobile, etc.

**Approved:**

(1) A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person, or organization authorized to make such a judgment.

(2) Means approved by the director of the department of labor and industries or his/her authorized representative: *Provided, however,* That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of chapter 296-24 WAC, Part A-1, shall apply.

**Audiogram:** A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.

**Authorized person:** A person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

**Beacon:** A flashing or rotating light.

**Bloodborne pathogens:** Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

**Blowup (wildfire):** Sudden increase in fire intensity or rate of spread sufficient to preclude direct control or to upset existing control plans. Often accompanied by violent convection and may have other characteristics of a fire storm.

**Chemical-protective clothing:** Items made from chemical-resistive materials, such as clothing, hood, boots, and gloves, that are designed and configured to protect the wearer's torso, head, arms, legs, hands, and feet from hazardous materials. Chemical-protective clothing (garments) can be constructed as a single, or multi-piece, garment. The garment may completely enclose the wearer either by itself or in combination with the wearer's respiratory protection, attached or detachable hood, gloves, and boots.

**Chief:** The employer representative highest in rank who is responsible for the fire department's operation.

**Combat scene:** The site where the suppression of a fire or emergency exists.

**Confinement:** Those procedures taken to keep a material in a defined or local area.

**Confined space:** Means a space that:

- (1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and
- (2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

- (3) Is not designed for continuous employee occupancy.

**Containment:** The actions taken to keep a material in its container (e.g. stop the release of the material or reduce the amount being released.)

**Contaminated:** The presence or the reasonably anticipated presence of nuisance materials foreign to the normal atmospheres, blood, hazardous waste, or other potentially infectious materials on an item or surface.

**Contaminated laundry:** Laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

**Contamination:** The process of transferring a hazardous material from its source to people, animals, the environment, or equipment, which may act as a carrier.

**dBA:** A measure of noise level expressed as decibels measured on the "A" scale.

**Deck pipe:** A permanently mounted device which delivers a large stream of water.

**Decontamination:**

- (1) The physical or chemical process of reducing and preventing the spread of contamination from persons or equipment used at a hazardous materials incident.
- (2) The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

**Department:** Department of labor and industries.

**Director of fire department:** The chief or principle administrator of the fire department.

**Director:** The director of the department of labor and industries, or his/her designated representative.

**Disinfection:** A procedure which inactivates virtually all recognized pathogenic microorganisms, but not necessari-

ly all microbial forms (example: bacterial endospores) on inanimate objects.

**Drill tower:** A structure which may or may not be attached to the station and which is principally used for training fire fighters in fire service techniques.

**Driver:** A person having satisfactorily completed the fire department's "requirements of driver" of a specific piece of fire apparatus.

**Emergency:** A sudden and unexpected event calling for immediate action.

**Emergency incident:** A specific emergency operation.

**Emergency medical care:** The provision of treatment to, and/or transportation of, patients which may include first-aid, cardiopulmonary resuscitation, basic life support, advanced life support, and other medical procedures that occur prior to arrival at a hospital or other health care facility.

**Emergency operations:** Activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of an incident and all functions performed at the scene.

**Employee:** An employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is their personal labor for an employer under this chapter whether by way of manual labor or otherwise. Also see "Member."

**Employer:** Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

**Employer representative:** A fire department officer authorized by the chief or director of the fire department to act in his/her behalf.

**Engine (pumper):** A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

**Engineering control:** Any procedure other than an administrative control that reduces exposures by modifying the source or reducing the exposure to an individual. Examples of engineering controls include the use of isolation, containment, encapsulation, sound absorbing materials for noise control, and ventilation.

**Explosion proof equipment:** Equipment enclosed in a case that is capable of withstanding an explosion or a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.

**Fastest means available:** The (nearest-closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.



**Fire apparatus:** A fire department emergency vehicle used for rescue, fire suppression, or other specialized functions.

**Fire boat:** A fire department watercraft having a permanent, affixed fire fighting capability.

**Fire combat training:** Training received by fire fighters on the drill ground, drill tower, or industrial site to maintain the fire fighter's proficiency.

**Fire department:** An organization providing any or all of the following: Rescue, fire suppression, and other related activities. For the purposes of this standard the term "Fire Department" shall include any public, private, or military organization engaging in this type of activity.

**Fire department facility:** Any building or area owned, operated, occupied, or used by a fire department on a routine basis. This does not include locations where a fire department may be summoned to perform emergency operations or other duties, unless such premises are normally under the control of the fire department.

**Fire department safety officer:** The member of the fire department assigned and authorized as the principal safety officer to perform the duties and responsibilities specified in this standard.

**Fire fighter:** A member of a fire department whose duties require the performance of essential fire fighting functions or substantially similar functions.

**Fire retardant:** A material to reduce, stop or prevent the flame spread.

**Fly:** Extendible sections of ground or aerial ladders.

**Foot stand, ladder:** Devices attached to inside of beams of ladders that when folded down, provide foot space.

**Ground jack:** Heavy jacks attached to frame of chassis of aerial-equipped apparatus to provide stability when the aerial portion of the apparatus is used.

**Ground mobile attack:** A wildland or wildfire attack using a moving fire apparatus with one or more hoses extended with at least a nozzle person moving with the vehicle.

**Guideline:** An organizational directive that establishes a standard course of action.

**Halyard:** Rope used on extension ladders for the purpose of raising or lowering fly section(s). A wire cable may be referred to as a halyard when used on the uppermost fly section(s) of three or four section extension ladders.

**Hazard communication program:** A procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees. See chapter 296-62 WAC, Part C, Hazard Communications.

**Hazardous area:** The immediate area where members might be exposed to a hazard.

**Hazardous atmosphere:** Any atmosphere, either immediately or not immediately dangerous to life or health, which is oxygen deficient or which contains a toxic or disease-producing contaminant.

**Hazardous condition:** The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

**Hazardous material:** A substance (solid, liquid, or gas) that when released is capable of creating harm to people, the environment, and property.

**Hazardous substances:** Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

**HEPA filtration:** High efficiency particulate air filtration found in vacuum system capable of filtering 0.3 micron particles with 99.97% efficiency.

**High angle rescue operations:** Operations, activities, and training on slopes greater than 60 degrees. High cliffs, overhangs, and sides of structures are examples.

**Hose bed:** Portion of fire apparatus where hose is stored.

**Hose tower:** A vertical enclosure where hose is hung to dry.

**Hot zone:** Area immediately surrounding a hazardous materials incident, which extends far enough to prevent adverse effects from hazardous materials releases to personnel outside the zone. This zone is also referred to as the exclusion zone or the restricted zone in other documents.

**Identify:** To select or indicate verbally or in writing using recognized standard terms. To establish the identity of; the fact of being the same as the one described.

**IDLH:** Immediately dangerous to life and health.

**Imminent hazard (danger):** An act or condition that is judged to present a danger to persons or property and is so immediate and severe that it requires immediate corrective or preventative action.

**Incident Commander:** The person in overall command of an emergency incident. This person is responsible for the direction and coordination of the response effort.

**Incident Command System (ICS):** An organized system of roles, responsibilities, guidelines, and procedures used to manage and direct emergency operations.

**Incipient (phase) fire:** The first phase of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing water vapor, carbon dioxide, carbon monoxide and other gases.

**Industrial fire brigade:** An organized group of employees whose primary employment is other than fire fighting; who are knowledgeable, trained and skilled in the safe evacuation of employees during emergency situations, and in assisting in fire fighting operations.

**Initial attack (initial action):** The control efforts taken by resources which are the first to arrive at the incident.

**Injury:** Physical damage suffered by a person that requires treatment by a practitioner of medicine (a physician, nurse, paramedic or EMT) within one year of the incident regardless of whether treatment was actually received.

**Life safety or rescue rope:** Rope dedicated solely for the purpose of constructing lines for supporting people during rescue, fire fighting, or other emergency operations, or during training evolutions.

**Line:** Rope when in use.

**Live fire training:** Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.

**Locking in:** The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

**Manned station:** See staffed station.

**May:** A permissive use or an alternative method to a specified requirement.

**Member:** A person involved in performing the duties and responsibilities of a fire department under the auspices of the organization. A fire department member may be a full-time or part-time employee or a paid or unpaid volunteer, may occupy any position or rank within the fire department, and engages in emergency operations. Also see Employee.

**Monitor:** A portable appliance that delivers a large stream of water.

**Mop up:** The act of making a wildfire/wildland fire safe after it is controlled, such as extinguishing or removing burning materials along or near the control line, felling snags, trenching logs to prevent rolling.

**NFPA:** National Fire Protection Association.

**NIIMS:** National Interagency Incident Management System.

**NIOSH:** National Institute of Occupational Safety and Health.

**Nondestructive testing:** A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.

**Nonskid:** The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

**Occupational Exposure:** Means reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

**Officer:** (1) Person in charge of a particular task or assignment.

(2) A supervisor.

**OSHA:** Occupational Safety and Health Administration.

**Other potentially infectious materials (OPIM):** (1) The following body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

**Outrigger:** Manually or hydraulically operated metal enclosures and jacks which are extended and placed in contact with the ground to give the apparatus a wide, solid base to support different loads.

**Overhauling:** That portion of fire extinguishment involving discovery of hidden fires or smoldering material.

**PASS:** Personal Alert Safety System.

**PEL:** Permissible Exposure Limit.

**Personal protective equipment (PPE):** (1) The equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that may be encountered at a hazardous materials incident. Personal protective equipment includes both personal protective clothing and

respiratory protection. Adequate personal protective equipment should protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(2) Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

**Place of employment:** Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.

**Platform:** The portion of a telescoping or articulating boom used as a working surface.

**Positive communication:** Visual, audible, physical, safety guide rope, or electronic means which allows for two way message generation and reception.

**PPE:** Personal protective equipment.

**Prefire training:** The training of fire fighters in recognizing sources and locations of potential fires and the method of fire combat to be used.

**Probable fatality:** (1) An occupational injury or illness, which, by the doctor's prognosis, could lead to death.

(2) An occupational injury or illness, which by its very nature, is considered life threatening.

**Protective clothing:** Equipment designed to protect the wearer from heat and/or hazardous materials contacting the skin or eyes. Protective clothing is divided into five types:

(1) Structural fire fighting protective clothing;

(2) Liquid splash-protective clothing;

(3) Vapor-protective clothing;

(4) High temperature-protective proximity clothing; and

(5) Wildland fire fighting clothing.

**Pumper:** See engine.

**Qualified:** One who by possession of a recognized degree, certificate or professional standing, or who by knowledge, training or experience has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work or the project.

**RCW:** Revised Code of Washington.

**Rescue:** Those activities directed at locating endangered persons at an emergency incident and removing those persons from danger.

**Rescue craft:** Any fire department watercraft used for rescue operations.

**Respiratory equipment:** Self-contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.

(1) Respirators (closed circuit): Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

(2) Respirators (open circuit): Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

(3) Respirators (demand): Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

(4) **Respirators (pressure demand):** Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

**Respiratory protection:** Equipment designed to protect the wearer from the inhalation of contaminants. Respiratory protection is divided into three types:

(1) Positive pressure self-contained breathing apparatus (SCBA);

(2) Positive pressure airline respirators;

(3) Negative pressure air purifying respirators.

**Responding:** The usual reference to the act of responding or traveling to an alarm or request for assistance.

**Risk assessment:** To set or determine the possibility of suffering harm or loss, and to what extent.

**Safe and healthful working environment:** The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

**Safety officer:** Either the fire department safety officer or an assistant safety officer (see fire department safety officer).

**Safety net:** A rope or nylon strap net not to exceed 6-inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

**Scabbard:** A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.

**SCBA:** Self Contained Breathing Apparatus.

**Service testing:** The regular, periodic inspection and testing of apparatus and equipment according to an established schedule and procedure, to insure that it is in safe and functional operating condition.

**Shall:** Mandatory.

**Should:** Recommended.

**Signalman:** A person so positioned that he/she can direct the driver when the drivers vision is obstructed or obscured.

**SOP:** Standard operating procedure or guidelines.

**Staffed station:** A fire station continuously occupied by fire fighters on scheduled work shifts. The staffed station may also serve as headquarters for volunteers.

**Standard operating procedure or guidelines:** An organizational directive that established a standard course of action. See SOP.

**Station (fire station):** Structure in which fire service apparatus and/or personnel are housed.

**Structural fire fighting:** The activities of rescuing, fire suppression, and property conservation involving buildings, enclosed structures, aircraft, vehicles, vessels, or similar properties that are involved in a fire or emergency situation.

**Structural fire fighting protective clothing:** This category of clothing, often called turnout or bunker gear, means the protective clothing normally worn by fire fighters during structural fire fighting operations. It includes a helmet, coat, pants, boots, gloves, and a hood to cover parts of the head not protected by the helmet and facepiece. Structural fire fighters' protective clothing provides limited protection from heat but may not provide adequate protection

from the harmful gases, vapors, liquids, or dusts that are encountered during hazardous materials incidents.

**Tail/running board:** Standing space on the side or rear of an engine or pumper apparatus.

**Team:** Two or more individuals who are working together in positive communication with each other through visual, audible, physical, safety guide rope, electronic, or other means to coordinate their activities and who are in close proximity to each other to provide assistance in case of emergency.

**Tillerman:** Rear driver of tractor-trailer aerial ladder.

**Turnout clothing:** See structural fire fighting protective clothing.

**Turntable:** The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

**Universal precaution:** An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

**Vapor barrier:** Material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

**Variance:** An allowed or authorized deviation from specific standard(s) when an employer substitutes measures which afford an equal degree of safety. Variances are issued as temporary or permanent with interim measures issued, when requested, until a determination or decision is made.

**Vessel:** Means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

**WAC:** Washington Administrative Code.

**Wheel blocks (chocks):** A block or wedge placed under a wheel to prevent motion.

**Wildfire:** An unplanned and unwanted fire requiring suppression action; an uncontrolled fire, usually spreading through vegetative fuels and often threatening structures.

**Wildland fire:** (Defined herein for structural fire fighters.) A fire burning in natural vegetation that requires an individual or crew(s) to expend more than one hour of labor to confine, control and extinguish. Agencies may substitute crews to avoid the one hour bench mark or increase crew size to complete the job in less than one hour. One hour was chosen as the maximum time that individuals should work in high temperatures in structural protective clothing.

**Wildland fire fighting enclosure:** A fire apparatus enclosure with a minimum of three sides and a bottom.

**WISHA:** Washington Industrial Safety Health Act.

**Work environment:** The surrounding conditions, influences or forces to which an employee is exposed while working.

**Workplace:** See place of employment.

**WRD:** WISHA Regional Directive.

NEW SECTION

**WAC 295-305-01007 Variance and procedure.** (1) Conditions may exist in operations that a state standard will not have practical use. The director may issue a variance from the requirements of the standard when another means of providing equal protection is provided.

(2) Applications for variances will be reviewed and investigated by the department. Variances granted shall be limited to the specific WAC code covered in the application and may be revoked for cause. The variance shall remain prominently posted on the premises while in effect.

Note: Variance forms may be obtained from the department upon request. Requests for variance from safety and health standards shall be made in writing to the assistant director, Division of Consultation and Compliance, Department of Labor and Industries, P.O. Box 44600, Olympia, Washington 98504-4600. (Reference RCW 49.17.080 and 49.17.090.)

NEW SECTION

**WAC 296-305-01009 Appeals.** Any party authorized to appeal from an action of the department as set forth in RCW 49.17.140(3), may do so by filing a notice of appeal in writing. The appeal must contain the recommended subject matter, as noted below, by serving a copy of such notice of appeal either in person or by mail upon the assistant director of the Division of Consultation and Compliance, (7273 Linderson Way, Tumwater, Washington) P.O. Box 44600, Olympia, Washington 98504-4600. The appeal must be sent to the department within fifteen working days of the communication of the notice.

The notice of appeal should contain:

- (1) The name and address of the appealing party and his/her representative if any;
- (2) The place where the alleged safety violation occurred;
- (3) A statement identifying the order, decision or citation appealed from, by report number and date of issuance;
- (4) The grounds upon which the appealing party considers such order, decision, or citation to be unjust or unlawful;
- (5) A statement of facts in support of each grounds stated;
- (6) The relief sought, including the specific nature and extent;
- (7) A statement that the person signing the notice of appeal has read it and to the best of his/her knowledge, information and belief there is good ground to support it. A notice of appeal may be signed by the party or by his/her authorized representative.

References:

WAC 296-350-030, Notice of appeal—Filing and service.

WAC 296-350-040, Notice of appeal—Contents RCW 49.17.140(3).

AMENDATORY SECTION (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

**WAC 296-305-015 ((Injury and illness report for fire fighters.))** ((1) Notice of injury or illness;

~~(a) Whenever an occupational accident causes injury or illness to a fire fighter or other employee, or whenever a fire fighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a fire fighter or other employee, or someone on his behalf, to report the injury or illness to the employer before the end of his duty period or not later than 24 hours.~~

~~EXCEPTION: In the event that symptoms of an occupational injury or illness are not apparent at the time of the accident, the employee shall report the symptoms to his employer within 48 hours after becoming aware of the injury or illness.~~

~~(b) Whenever an injury occurs to a fire fighter or other employee while on duty and the injury results in a fatality, or probable fatality, the employer shall report the accident to the division of industrial safety and health by the fastest means available.~~

~~(2) Recordkeeping—written reports; all fire service employers shall maintain records and reports in accordance with chapter 296-27 WAC.~~

~~(3) An annual summary of the statistics tabulated in items (1) (a), (b), and (2) above shall be maintained by the department of labor and industries.)) Reserved.~~

NEW SECTION

**WAC 296-305-01501 Injury and illness reports for fire fighters.** (1) Notice of injury or illness.

(a) Whenever an occupational accident causes injury or illness to a fire fighter or other employee, or whenever a fire fighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a fire fighter or other employee, or someone on his/her behalf, to report the injury or illness to the employer before the end of his/her duty period but not later than twenty-four hours after the incident.

(b) Exception: In the event that symptoms of an occupational injury or illness are not apparent at the time of the incident, the employee shall report the symptoms to his/her employer within forty-eight hours after becoming aware of the injury or illness.

(c) Within eight hours after the fatality or probable fatality of any fire fighter or employee from a work-related incident or the inpatient hospitalization of two or more employees as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/multiple hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.

(i) This requirement applies to each such fatality or hospitalization of two or more employees which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this subsection, the employer shall make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection shall relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or

hospitalized employees, contact person, phone number, and a brief description of the incident.

(2) Recordkeeping - written reports; all fire service employers shall maintain records of occupational injuries and illnesses. Reportable cases include every occupational death, every occupational illness, or each injury that involves one of the following: Unconsciousness, inability to perform all phases of regular duty-related assignment, inability to work full time on duty, temporary assignment, or medical treatment beyond first-aid.

(3) All fire departments shall record occupational injury and illnesses on forms OSHA 101-Supplementary Record Occupational Injuries and Illnesses and OSHA 200-Log summary. Forms other than OSHA 101 may be substituted for the Supplementary Record of Occupational Injuries and Illnesses if they contain the same items. (See Appendix A.)

(4) An annual summary of the statistics tabulated from fire fighter occupational injuries, illnesses, and fatalities occurring during each calendar year beginning January 1 and ending December 31, shall be maintained and reported in February of the following year, to the department of labor and industries.

#### NEW SECTION

**WAC 296-305-01503 Accident investigation.** (1) After the emergency actions following accidents that cause serious injuries that have immediate symptoms, a preliminary investigation of the cause of the accident shall be conducted. The investigation shall be conducted by a person designated by the employer. The fire department shall establish a written procedure and a program for investigating, and evaluating the facts, relating to the cause of the accident. The findings of the investigation shall be documented by the employer for reference at any following formal investigations.

(2) Within eight hours after the fatality or probable fatality of any fire fighter or employee from a work-related incident or the inpatient hospitalization of two or more employees as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/multiple hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.

(3) Equipment involved in an accident resulting in an immediate or probable fatality, shall not be moved, until a representative of the division of consultation and compliance investigates the accident and releases such equipment, except where removal is essential to prevent further accident. When necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(4) Upon arrival of the department's investigator, the employer shall assign to assist the investigator such personnel as are deemed necessary by the department to conduct the investigation.

(5) The fire department shall preserve all records, photographic materials, audio, video, recordings, or other documentation concerning an accident.

Reference: WAC 296-24-020 (2), (3).

#### NEW SECTION

##### **WAC 296-305-01505 Accident prevention program.**

(1) All fire departments shall develop and implement a written safety program.

(2) Fire department safety programs shall have an assigned safety officer.

(3) Each employer shall develop a formal accident-prevention program, tailored to the needs of the fire department and to the type of hazards involved. The department of labor and industries' consultation division may be contacted for assistance in developing appropriate programs.

(a) A safety orientation program describing the employer's safety program shall include:

(i) How and when to report injuries, including instruction as to the location of first-aid facilities.

(ii) How to report unsafe conditions and practices.

(iii) The use and care of required personal protective equipment.

(iv) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(v) Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(vi) A description of the employer's total safety program.

(vii) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(4) Fire departments shall have a safety committee and serve in an advisory capacity to the fire chief. The number of employer-selected members shall not exceed the number of employee-elected members.

(5) The frequency of safety meetings shall be determined by the safety committee, but shall not be less than one hour per calendar quarter, however, special meetings may be held at the request of either party.

(6) Minutes shall be taken of all safety meetings. After review by the chief or his/her designee the minutes shall be conspicuously posted at all stations.

(7) Employee submitted written suggestions or complaints shall be considered. Action recommendations by the committee shall be transmitted in writing to the fire chief. The chief or his/her designated agent will reply to the submitter.

(8) Inspections of fire stations shall be made at least monthly and records maintained to ensure that stations are reasonably free of recognized hazards. These inspections shall include, but not be limited to, tools, apparatus, extinguishers, protective equipment, and life safety equipment.

#### NEW SECTION

##### **WAC 296-305-01507 Fire department safety officer.**

(1) The duties of the fire department safety officer shall include, but are not limited to:

(a) Plan and coordinate safety activities.

(b) Work closely with the safety committee.

(c) Investigate accidents.

(d) Devise corrective measures to prevent accidents.

(2) Realizing safety training and recordkeeping are management's responsibility, the fire department safety

officer shall ensure the following requirements are being met:

- (a) Ensure safety training for all employees.
- (b) Ensure safety directives are complied with.
- (c) Ensure that records are kept, but not limited to the following:

following:

- (i) Accidents
- (ii) Injuries
- (iii) Inspections
- (iv) Exposures
- (v) Medical Monitoring
- (vi) Safety meetings
- (vii) Apparatus
- (viii) Equipment
- (ix) Protective clothing
- (x) Other fire department safety activities

(3) The fire department safety officer, through the fire chief, shall have the authority and responsibility to identify and recommend correction of safety and health hazards.

(4) The fire department safety officer shall maintain a liaison with staff officers regarding recommended changes in equipment, procedures, and recommended methods to eliminate unsafe practices and reduce existing hazardous conditions.

Note: NFPA 1521 Standard for Fire Department Safety Officer, may be used as a guide for duties and responsibilities relating to the safety officer.

#### NEW SECTION

##### **WAC 296-305-01509 Management's responsibility.**

(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment, as it applies to noncombat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(d) Procedures the fire department safety officer and incident commander shall use to ensure that emergency care is provided for members on duty.

(e) An accident investigation program as required by this chapter.

(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.

(3) Members under the influence of alcohol or narcotics shall not be permitted on the work site. This rule does not apply to persons taking prescription drugs and narcotics as directed by a physician or dentist providing such use shall not endanger the worker or others.

(4) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required

safety and health posters. The WISHA poster (WISHA form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The fire department shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.

(7) Organizational statement. The employer shall prepare and maintain a statement or written policy which establishes the existence of the fire service organization; the basic organizational structure; the type, amount, and frequency of training to be provided to members; the expected number of members; and the functions that the organization is to perform at the workplace. The organizational statement shall be available for inspection by the director and by employees or their designated representatives.

(8) Personnel. The employer shall assure that employees who are expected to do interior structural fire fighting are physically capable of performing duties which may be assigned to them during emergencies.

#### NEW SECTION

**WAC 296-305-01511 Employee's responsibility.** (1) Fire fighters shall cooperate with the employer and other employees in efforts to eliminate accidents.

(2) Each fire fighter or other employee shall comply with the provisions of this chapter which are applicable to his/her own actions and conduct in the course of his/her employment.

(3) Fire fighters and other employees shall notify the appropriate employer representative of unsafe work practices and of unsafe conditions of equipment, apparatus, or work places.

(4) Fire fighters and other employees shall apply the principles of accident prevention in their work. They shall use all required safety devices, protective equipment, and safety practices, as provided and/or developed by management.

(5) Each fire fighter shall take proper care of all personal protective equipment.

(6) Fire fighters shall attend, when on duty, required training and/or orientation programs designed to increase their competency in occupational safety and health.

(7) Fire fighters and other employees shall not report to work under the influence of alcohol or controlled substances, with the exception of medications prescribed by a physician. These prescribed medications must not impair the performance of the individual.

#### NEW SECTION

**WAC 296-305-01513 Safe place standards.** (1) Every employer shall furnish and require the use of appropriate safety devices and safeguards. All fire fighting methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything necessary to protect the safety and health of employees.

(2) No fire fighter or other employee, employer or employer representative shall:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.

#### NEW SECTION

**WAC 296-305-01515 First-aid training and certification.** (1) All fire fighters except directors of fire departments and the directors' designated personnel, shall have first-aid training as evidenced by a current, valid first-aid card.

(2) New fire fighters shall have such first-aid training within 90 days of the date of their employment or enroll for training within 30 days of the date of their employment.

(3) First-aid training and certification for other employees and directors of fire departments shall conform to the requirements of chapter 296-24 WAC, Part A-1.

(4) Fire service duties include exposure to bloodborne pathogens. The requirements of this section and chapter 296-62 WAC, Part J, Biological Agents, shall apply.

See Appendix B for sample reporting forms.

#### NEW SECTION

**WAC 296-305-01517 First-aid kits.** (1) To assure the emergency medical care of the fire fighters there shall be present at each emergency incident at least the following items:

- 1 (one) utility scissors, EMT-type
- 1 CPR barrier
- 3 (three) rolls 1 inch adhesive tape
- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) burn sheets, sterile, individually wrapped
- 2 (two) triangular bandages
- 1 (one) multi-trauma dressing, sterile
- 2 (two) supply disposable gloves
- 2 (two) wire splints or equivalent

(2) All fire stations shall maintain a first-aid kit. The kit shall contain at least the following items:

- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 2 (two) rolls 1 inch adhesive tape
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) triangular bandages
- 1 (one) utility scissors, EMT-type
- 1 (one) pair tweezers
- 1 (one) package assorted adhesive bandages

(3) All fire apparatus shall contain a first-aid kit as described in chapter 296-24 WAC, Part A-1.

(4) All fire departments providing emergency medical services to the public shall conform to the requirements of chapter 18.73 RCW Emergency Care and Transportation Services (and if applicable, chapter 248-17 WAC, Ambulance Rules and Regulations) which require additional first-aid equipment.

Additional References: Chapter 294-24 WAC, Part A-1.

**AMENDATORY SECTION** (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-017 ((Accident investigation.))** ~~((1) The affected employer, or his representative, shall assist the department in any investigation of accidents involving fire fighters or other employees of that employer.~~

~~((2) When a fatality occurs to a fire fighter while on duty, the equipment involved shall not be moved until investigated by the authority having jurisdiction except where removal is essential in preventing further accidents or is essential in the continuance of emergency action.))~~ **Reserved.**

**AMENDATORY SECTION** (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-020 ((Accident prevention programs.))** ~~((1) The employers of fully manned fire departments shall establish safety programs with the following elements:~~

~~((a) The program shall have an assigned safety officer who is responsible for the following:~~

~~((i) Plan and direct all safety activities, work closely with the safety committee, and devise corrective measures to prevent accidents.~~

~~((ii) Be responsible for safety training of all employees.~~

~~((iii) Assist the safety committee in developing the agenda for the meeting.~~

~~((iv) See that safety recommendations are completed.~~

~~((v) Attend safety committee meetings and contribute accident prevention information and material. Where possible, assistants shall be appointed from other shifts or battalions to attend safety committee meetings.~~

~~((vi) Maintain records of accidents, injuries, inspections and other fire department safety activities.~~

~~Note: Clerical employees shall participate in the program proportionate to their degree of hazard exposure as prescribed by the safety officer.~~

~~((b) Safety committee. Each department shall have a safety committee comprised of equal employee-employer representation.~~

~~((i) The frequency of the safety committee meetings shall be determined by the employer, but shall not be less than one hour per calendar quarter.~~

~~((ii) Minutes of safety committee meetings shall be taken and transmitted to the fire department's director or his designee.~~

~~((c) Employee safety meetings.~~

~~((i) The programs shall include safety meetings, scheduled to involve all fire fighters. Different meetings may be scheduled for the fire fighters on different shifts.~~

~~((ii) The frequency of employee safety meetings shall be determined by the employer, but shall not be less than one hour per month.~~

~~((iii) Employee submitted written suggestions or complaints shall be considered. Action taken by committee shall be transmitted in writing to affected employee.~~

~~((iv) Minutes of the safety meetings shall be taken and maintained in a file for that purpose.~~

~~(v) The requirements of this subsection may be met by integrating the safety meeting into a regular training program.~~

~~(d) Inspections of manned fire stations shall be made at least monthly and records maintained to insure that stations are reasonably free of recognizable physical hazards. These inspections shall also include powered portable equipment, portable fire extinguishers, utility straps and life lines.~~

~~(2) Employers operating from unmanned or volunteer fire stations shall develop accident prevention programs that include recording injuries, scheduled safety meetings, facility and equipment inspections and a system for implementing safety recommendations from employees. These activities may be combined and performed on a schedule consistent with the other activities of the fire department.)~~ Reserved.

## NEW SECTION

### **WAC 296-305-02001 Personal protective equipment and protective clothing.**

Note: For wildland fire fighting personal protective equipment and clothing requirements see WAC 296-305-07003, Personal protective clothing and equipment for wildland fire fighting.

(1) Employers shall provide and maintain at no cost to the employee protective clothing and protective equipment as required by this standard. Employers shall ensure the use of all protective equipment and clothing required by this standard. Employers shall assure that the protective clothing and equipment ordered or purchased after the effective date of this standard meets the requirements of this standard. Full protective equipment designated for the task, shall be worn for all department activities.

(2) Fire fighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the protective equipment assigned to them or available for their use.

(3) Protective clothing and protective equipment shall be used and maintained in accordance with manufacturer's instructions. A written maintenance, repair, retirement, servicing, and inspection program shall be established for protective clothing and equipment. Specific responsibilities shall be assigned for inspection and maintenance. This requirement applies to fire fighter's personally owned equipment as well as equipment issued by the employer.

(4) The fire department shall provide for the cleaning of protective clothing and contaminated station/work uniforms at no cost to the employee. Such cleaning shall be performed by either a cleaning service, or at a fire department facility, that is equipped to handle contaminated clothing. See Appendix E.

(5) Personal protective equipment and clothing shall be of a type specified by NIOSH, MSHA, NFPA, ANSI, or as specifically referenced in the appropriate section of this chapter.

(6) Station/work uniforms. Station/work uniforms are not themselves intended as primary protective garments.

(a) Station/work uniforms shall meet the requirements as specified in NFPA 1975, 1990 edition.

(b) All station/work uniforms purchased after the effective date of this regulation shall meet the requirements set forth in this standard.

(c) Station/work uniforms include trousers, and/or coveralls, but exclude shirts, underwear, and socks.

(d) Members shall not wear any clothing that is determined to be unsafe due to poor thermal stability or poor flame resistance. The characteristics of poor thermal stability or flame resistance are products which melt, drip, or stick to the skin.

(e) Garments meeting the requirements of NFPA, 1977 Wildland Fire Fighting, 1993 edition, meet the intent of this section.

(f) Station/work uniforms purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until the employers current inventory has been exhausted, whichever comes first.

(7) Turnout clothing/pants and coat:

Proximity clothing:

(a) All turnout clothing used as proximity clothing shall meet the requirements of NFPA, 1976 Standard on Protective Clothing for Proximity Fire Fighting, 1992 edition.

(b) There shall be at least a two-inch overlap of all layers of the protective coat and the protective trousers so there is no gaping of the total thermal protection when the protective garments are worn. The minimum overlap shall be determined by measuring the garments on the wearer, without SCBA, with the wearer in the most stretched position, hands together reaching overhead as high as possible.

(c) Single piece protective coveralls shall not be required to have an overlap of all layers as long as there is continuous full thermal protection.

(d) Fire departments that provide protective coats with protective resilient wristlets secured through a thumb opening may provide gloves of the gauntlet type for use with these protective coats. Fire departments that do not provide such wristlets attached to all protective coats shall provide gloves of the wristlet type for use with these protective coats.

(e) Where the SCBA is worn over or outside the proximity protective garment, the fire department shall inform the member of the potential high levels of radiant heat that may result in the failure of the SCBA. The fire department shall require additional approved radiant reflective criteria, including but not limited to a protective cover, for the expected proximity fire fighting exposures when the SCBA is worn over or outside the proximity protective garment.

(8) Structural fire fighting clothing.

(a) All turnout clothing purchased after the effective date of these regulations shall meet the requirements of NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971, 1991 edition. In no case, shall fire fighters wear personal protective clothing manufactured to NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971, 1986 edition.

(b) Turnout clothing shall be maintained as specified by the manufacturer.

(c) Repairs to turnout clothing shall be done by qualified individual(s) approved by the manufacturer.

(d) Turnout clothing which is damaged or does not comply with this section shall not be used.



(e) All turnout clothing shall be inspected semi-annually by an individual qualified by the employer. Inspection intervals shall not exceed six months.

#### NEW SECTION

**WAC 296-305-02003 Eye and face protection.** (1) Face and eye protection shall be provided for and used by fire fighters engaged in fire suppression and other operations involving hazards to the eye and face at all times when the face is not protected by the full facepiece of the SCBA.

(2) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

(a) Spectacles with protective lenses that provide optical correction.

(b) Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.

(c) Goggles that incorporate corrective lenses mounted behind the protective lens.

(3) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see such limitations and precautions are strictly observed.

(4) Care, use, and maintenance for any type of eye or face protection shall follow the manufacturers suggested recommendations.

(5) Goggles shall be inspected, cleaned and disinfected prior to being re-issued to other employees.

(6) For known eye and face hazards, such as (but not limited to) cutting with power saws, chopping, drilling, and using extraction equipment, the fire fighter helmet face shield shall be worn.

(7) Helmet face shields shall meet the requirements of NFPA, Standard Helmets for Structural Fire Fighting 1972, 1992 edition.

(8) For fire fighters that do not have a helmet face shield for eye and face protection, flexible or cushioned fitting goggles shall be provided.

(9) Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(a) Materials used shall be chemical-resistant, nontoxic, nonirritating and slow burning.

(b) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortable and snugly in front of the eyes.

(c) Goggles shall meet the requirements of ANSI Z87.1.

#### NEW SECTION

**WAC 296-305-02005 Hearing protection.** (1) Fire departments shall administer a continuing effective hearing conservation program, as described in chapter 296-62 WAC, Part K, Hearing Conservation, whenever employees noise exposure equal or exceed an eight-hour time-weighted average (TWA) sound level of 85 decibels (dBA) measured on the A scale weighing at slow response or, equivalently, a noise dose of fifty percent.

(2) For the purpose of a hearing conservation program, employee noise exposure shall be computed in accordance with WAC 296-62-09055, Appendix E, Noise exposure computation, without regard to any attenuation provided by the use of personal protective equipment.

(3) The hearing conservation program shall be provided at no cost to the employee.

(4) Hearing protection shall be provided for and used by all members when exposed to noise in excess of 90 dBA from power tools, engine warm ups, drafting, or other such activities, except in situations where the use of such protective equipment would create an additional hazard to the user such as in fire suppression.

(5) Audiometric test shall be performed by a licensed or certified audiologist, otolaryngologist, or other qualified physician, or by a technician who is certified by the council of accreditation in occupational hearing conservation. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or other qualified physician.

(6) The fire department shall institute a hearing conservation training program for all employees and shall ensure their participation in such programs, meeting the minimum requirements specified in chapter 296-62 WAC, Part K.

(7) The use of personal protective equipment to limit noise exposure shall be considered as an interim approach until the noise levels produced by vehicles, warning devices, and radios can be reduced. Protective muffs are recommended for fire fighters, due to the difficulties of proper fit and insertion of ear plugs.

(8) Noise levels in new fire apparatus purchased after the effective date of this chapter, shall not exceed at any seated position to be a maximum of 90 dBA when measured, as specified in the standard, without any warning device in operation.

(a) Interior noise levels shall be measured with the vehicle in motion at the speed that produces the highest noise level, up to 55 mph.

(b) All windows should be closed and the noise level shall be measured in each passenger area.

(c) For existing apparatus, compliance with this section will be required within two years of the effective date of this chapter.

Note: In order to reduce noise levels, the following engineering controls may achieve such a reduction:

- a. Move siren speakers and air horns down onto the front bumper.
- b. Respond with windows closed.
- c. Install sound-attenuating insulation in cabs of apparatus.
- d. Lower the pitch of siren and air horns.
- e. Improve radio equipment with higher clarity and less output volume.

(9) For existing fire apparatus that cannot be brought into compliance, the employer shall be required to provide members with hearing protectors.

(10) The fire department shall provide training in the use and care of all hearing protectors provided to employees.

(11) The training program shall be repeated annually for each employee included in the hearing conservation program.

(12) Information provided in the training program shall be updated to be consistent with changes in protective equipment and work processes.

Additional References: Chapter 296-62 WAC, Part K.

NEW SECTION

**WAC 296-305-02007 Hand protection.** (1) Fire fighters' gloves shall when worn with turnout clothing, provide protection to the wrist area. In turnout clothing where wristlet protection is not provided fire fighters' gloves shall be closed at the top.

(2) Fire departments shall establish written policy and procedure for the care, use, cleaning, replacement and/or retirement criteria, and maintenance of gloves issued.

(3) Gloves purchased after the effective date of this chapter shall comply with this section.

(4) Fire fighters' gloves used during structural fire fighting operations including rescue of victims from fires, and emergency medical operations where sharp or rough surfaces are likely to be encountered such as victim extractions shall meet the requirements of NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition.

(5) Fire fighters gloves are not designed to provide protection to all environments. For gloves desired to fill the needs of a specific requirement see that specific section of this chapter. It is the intent of this section to provide protection from intrusion throughout the glove body by certain common chemicals, and from bloodborne pathogens. Fire departments shall consult the manufacturer's recommendation.

(6) Fire fighters shall have their hands sized for compliance with the sizing chart as specified in NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition.

NEW SECTION

**WAC 296-305-02009 Body protection.** (1) Body protection shall be coordinated with torso, hand, head, foot, respiratory, and face protection as outlined in WAC 296-305-02001 through 296-305-02019.

(2) Fire departments shall establish written procedures for the use of components of any or all portions of protective equipment.

(3) Fire departments that provide structural and wildfire suppression shall establish written procedures for the use of protective clothing on both structural and wildfire suppression activities.

NEW SECTION

**WAC 296-305-02011 Body armor.** (1) Fire departments that use protective body armor shall comply with the following:

(2) The fire department shall develop and have in place written guidelines for the care, use and maintenance of the protective body armor in conjunction with the manufacturer's recommendations.

(3) All protective body armor shall meet or exceed National Institute of Justice NIF 0101.03, Threat Level IIIA requirements, April 1987 edition, which is incorporated by reference (or shall be demonstrated by the employer to be equally effective), for both wet and dry ballistic performance.

(4) Body armor shall be properly fitted and shall not be used beyond the manufacturer's warranty.

NEW SECTION

**WAC 296-305-02013 Foot protection for structural fire fighting.** (1) Fire fighters shall be provided with and use footwear that complies with NFPA 1974, Standard on Protective Footwear for Structural Fire Fighting, 1992 edition.

(2) Fire departments shall establish written policy and procedure, care, use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

(3) Fire departments shall establish cleaning and drying instruction including applicable warning regarding detergents, soaps, cleaning additives and bleaches for protective footwear.

(4) Fire departments shall request performance criteria from the manufacturer on the sole and vamp of footwear exposed to unleaded gasoline, battery acid (37% sulfuric acid), aqueous film forming foam (AFFF) 3% concentration, fire resistant hydraulic fluid, full strength, and swimming pool chlorinating chemicals containing at least 65% free chlorine (saturated solution). The chemical test protocol to be used should be ASTM F-903 "Test Method For Resistance of Protective Clothing to Penetration by Liquids using Exposure C." The results of such testing shall be reported as "Pass/Fail."

(5) Fire fighter footwear may be resoled but the footwear upon resoling shall meet the requirements specified in this section.

NEW SECTION

**WAC 296-305-02015 Head protection.** (1) Fire fighters who engage in or are exposed to the hazards of structural fire fighting shall be provided with and use helmets that meet the requirements of NFPA 1972, Standard on Helmets for Structural Fire Fighting, 1987 edition.

(2) Helmets purchased thirty days after the adoption of this chapter shall meet the requirements of NFPA, Standard on Helmets for Structural Fire Fighting 1972, 1992 edition.

(3) Fire departments shall establish a written policy and procedure for the care, use, maintenance, and retirement criteria for helmets.

(4) Helmets shall be provided with face shields or goggles.

(5) Helmet accessories shall not interfere with the function of the helmet or its components parts and shall not degrade the helmets performance.

(6) Helmets shall be maintained in accordance with the manufacturer's recommendations. No modifications shall be made without prior written approval from the manufacturer.

(7) Fire fighters shall follow the manufacturer's recommendations regarding cleaning, painting, marking, storage, and frequency and details of inspection.

Note: Helmets should be stored at room temperature and out of direct sunlight.

NEW SECTION

**WAC 296-305-02017 Personal alert safety system (PASS) protection.** (1) Each fire fighter working in a hazardous area requiring the use of SCBA shall wear and use a PASS device. PASS devices shall meet the require-

ments of NFPA, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters 1982, 1993 edition. (See WAC 296-305-07001 through 296-305-07019 for wildland fire fighting application.)

(2) Each PASS device shall be tested weekly and prior to each use, and shall be maintained in accordance with the manufacturers' instructions.

(3) Fire departments shall provide written procedures for the use of PASS devices.

(4) Compliance with this section shall occur no later than two years after the effective date of this chapter.

Note: Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.

(5) Fire departments shall establish a written procedure for the care, use, maintenance, and repair of PASS devices in conjunction with manufacturer's recommendations.

### NEW SECTION

**WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection.** (1) All life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of NFPA 1983, Standard on Fire Service Life Safety Rope, Harness, and Hardware, 1990 edition.

(2) Ropes used to support the weight of members or other persons during rescue, fire fighting, other emergency operations, or during training evolutions shall be life safety rope.

(3) Life safety rope used for rescue at fires, or other emergency incidents, or for training, shall be permitted to be reused if inspected before, and after, each such use in accordance with the manufacturer's instructions and provided:

(a) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(b) The rope has not been subjected to any impact load.

(c) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(d) If the rope used for rescue at fires or other emergency incidents, or for training, has been subjected to (a), (b), or (c) of this section, or fails the visual inspection, it shall be destroyed after such use.

(e) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action shall be taken and the rope shall be placed out of service. See Appendix C.

(f) Rope inspection shall be conducted by qualified inspectors in accordance with rope inspection procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(4) Fire departments shall establish written procedures for the use of life safety ropes and rescue operations utilizing harnesses and ropes.

(5) Records shall provide a history of each life safety and training rope.

(6) Rope used for training evolutions shall be designated as training rope and shall be permitted to be reused if

inspected before and after each use in accordance with the manufacturer's instructions.

(7) The destruction of a rope means that it shall be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

(8) All repairs to life safety harnesses shall be done by an authorized manufacturer's representative, or the manufacturer.

Note: See WAC 296-305-06003(3), (4), (5), and (6) for the testing of life belts, ropes, and harnesses.

(9) Class I safety harnesses shall be used for fire fighter attachment to ladders and aerial devices.

(10) Class II and Class III life safety harnesses shall be utilized for fall arrest and rappelling operations.

(11) Rescue ropes shall be padded when deployed over edges or rough surfaces.

Note: See WAC 296-305-05005 for high angle applications.

Additional References: Appendix C, Life Safety Rope

**AMENDATORY SECTION** (Amending WSR 94-16-145, filed 8/3/94, effective 9/12/94)

**WAC 296-305-025 (~~Management's responsibility.~~)**  
~~((1) It shall be the responsibility of management to establish, supervise, and enforce, in a manner which is effective in practice supervise:~~

~~(a) A safe and healthful working environment, as it applies to non-combat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.~~

~~(b) An accident prevention program as required by this chapter.~~

~~(c) Programs for training employees in the fundamentals of accident prevention.~~

~~(2) The employer shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers or other suitable sources.~~

~~(3) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.~~

~~(4) Controlled substances shall not be allowed in station houses, with the exception of those used by the profession to be administered to patients or medication prescribed by a physician, unless such prescribed medication would impair the performance of the individual.~~

~~(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health poster (Job safety and health protection, form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.~~

~~(6) The employer shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.)~~ Reserved.

NEW SECTION**WAC 296-305-02501 Emergency medical protection.**

(1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NFPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1993 edition.

(2) Prior to purchase, fire departments shall consult the technical data package prepared by the manufacturer to compare glove and garment performance data. This review shall provide the relative ranking of the performance data to aid in the selection process.

(3) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(4) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which large splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(5) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-62 WAC, Part J, Biological Agents.

(6) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(7) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(8) The infection control officer or his/her designee will function as a liaison with area hospitals to provide notification that a communicable disease has been suspected/determined by fire or hospital personnel. The infection control officer will institute the established exposure protocols immediately after report of such.

(9) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; immunization requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(10) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(11) Fire departments shall establish a records system for members health and training.

(12) Fire fighters shall be trained in the proper use of PPE, exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(13) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(14) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(15) Fire departments shall comply with chapter 296-62 WAC, Part J, Biological Agents, in its entirety.

(16) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved high efficiency particulate air (HEPA) respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done by procedures recommended by the respirator manufacturer or the department.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with Mycobacterium tuberculosis (M. tuberculosis) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

**Additional References:**

Chapter 296-62 WAC, Part J, Biological Agents-Bloodborne Pathogens.

WAC 296-62-08001(3), Exposure Control.

WRD 92-6, Enforcement Procedures for the Occupational Exposure to the Bloodborne Pathogens Standard.

WISHA Tuberculosis Compliance Memorandum, December 22, 1993.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-030 ((Employee's responsibility-))**

~~((1) Fire fighters shall cooperate with the employer and other employees in efforts to eliminate accidents.~~

~~(2) Each fire fighter or other employee shall comply with the provisions of this chapter which are applicable to his own actions and conduct in the course of his employment.~~

~~(3) Fire fighters and other employees shall notify the appropriate employer representative of unsafe work practices and of unsafe conditions of equipment apparatus or work places.~~

~~(4) Fire fighters and other employees shall apply the principles of accident prevention in their work. They shall use all required safety devices and protective equipment.~~

~~(5) Each fire fighter shall take proper care of all personal protective equipment.~~

~~(6) Fire fighters shall attend, when on duty, required training and/or orientation programs designed to increase their competency in occupational safety and health.~~

~~(7) Fire fighters and other employees shall not report to work under the influence of alcohol or controlled substances, with the exception of medications prescribed by a physician. These prescribed medications must not impair the performance of the individual.) Reserved.~~

#### NEW SECTION

##### **WAC 296-305-03001 Hazardous chemical protection.**

(1) Structural fire fighting protective clothing shall not be used as primary protection for hazardous material incidents except as noted in the current edition of the Department of Transportation Emergency Response guidebook, which is incorporated by reference or shall be demonstrated by the employer to be equally effective. Use of this clothing as primary protection may result in serious injury or death.

(2) Fire departments shall use the technical data package provided by the clothing manufacturer when selecting the hazardous chemical protection.

(a) The approach to selecting personal protective clothing must encompass an ensemble of clothing items that are easily integrated to provide a level of protection and the ability to carry out emergency response activities.

(b) The following is a check list of components that may form the chemical protective ensemble:

- (i) Protective clothing (suits, coveralls, hoods, gloves, boots)
- (ii) Respiratory equipment (SCBA)
- (iii) Cooling system (ice vest, air circulation, water circulation)
- (iv) Head protection
- (v) Ear protection
- (vi) Inner garments
- (vii) Outer protection (overgloves, overboots, flash-covers)

(3) Fire fighters who engage in operations or who are exposed to known chemicals in liquid-splash chemical environments during hazardous chemical material emergencies shall be provided with, and shall use, liquid splash-protective suits. Liquid splash-protective suits shall meet the requirements of NFPA, Standard on Liquid-Splash Protective Suits for Hazardous Chemical Emergencies 1992, 1991 edition.

(4) Fire department personnel involved in hazardous materials incident shall be protected against potential chemical hazards. Chemical protective clothing shall be selected and used to protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(5) Hazardous chemical protective equipment shall be classified by performance and for the purpose of this chapter are defined as:

- (a) Vapor-Protective Suits
- (b) Liquid Splash-Protective Suits
- (c) Support Function Protective Suits

(6) Vapor protective and liquid splash-protective suits shall completely cover both the wearer and the wearer's breathing apparatus. Wearing a SCBA or other respiratory equipment outside the suit subjects this equipment to the chemically contaminated environment, increasing possible failure potentials and decontamination problems.

(7) Fire fighters who engage in operations or who are exposed to chemicals in vapor environments or unknown

chemical environments shall be provided with, and shall use, vapor protective suits. Vapor protective suits shall meet the requirements of NFPA, Standard on Vapor Protective Suits for Hazardous Chemical Emergencies 1991, 1990 edition.

(8) Prior to the use of vapor protective suits, liquid splash-protective suits or support function protective suits, the department shall consult the technical data package to assure that the garment is appropriate for the specific hazardous chemical emergency.

(9) Vapor protective suits and liquid splash-protective suits shall not be used alone for any fire fighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(10) Liquid splash-protective suits shall not be used for protection from chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents:

(a) N. Irving Sax, Dangerous Properties of Industrial Chemicals, current edition.

(b) NIOSH Pocket Guide to Chemical Hazards, current edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volumes 13, Hazardous Chemical Data.

(11) Liquid splash-protection suits shall not be used for protection from chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Governmental Industrial Hygienists (ACGIH.), Threshold Limit Values and Biological Exposure Indices for 1988-1989.

(12) Fire fighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies shall be provided with and shall use support function protective garments. Support function garments shall meet the requirements of NFPA, Standard on Support Function Protective Garments for Hazardous Chemical Operations 1993, 1990 edition.

(13) Support garments shall not be used in the hot zone of any hazardous material operation.

(14) Support function protective garments shall not be used for protection from chemical or specific chemical mixture with known or suspected carcinogenicity as indicated by (10)(a), (b), or (c).

(15) Support function protective garments shall not be used for protection from chemicals or specific chemical mixtures with skin toxicity notations as indicated in the American Conference of Governmental Industrial Hygienists, Threshold Values and Biological Exposure Indices for 1988-1989.

(16) Elements of emergency response, handling emergency response, training responder levels of responsibility, medical evaluation, and ICS functions are outlined in chapter 296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

Note: Decontamination - See Appendix D.

Additional References: Chapter 296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

PROPOSED

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-035 ((Safe place standards.)) ((1) Every employer shall furnish and require the use of appropriate safety devices and safeguards. All firefighting methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the lives and safety of employees.~~

~~(2) No fire fighter or other employee, employer or employer representative shall:~~

~~(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.~~

~~(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.) Reserved.~~

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

~~WAC 296-305-040 ((First aid training and certification.)) ((1) All fully paid fire fighters and volunteers, except directors of fire departments and the directors' designated personnel, shall have first aid training as evidenced by a current, valid first aid card as issued by an organization approved by the director of the department of labor and industries or by documented evidence of equivalent training. New fire fighters shall have or be enrolled in such first aid training within 90 days of the date of their employment or enroll for training within 30 days of the date of their employment.~~

~~(2) First aid training and certification for other employees and directors of fire departments shall conform to the requirements of WAC 296-24-060.) Reserved.~~

## NEW SECTION

**WAC 296-305-04001 Respiratory equipment protection.** (1) Fire fighter's self-contained breathing apparatus (SCBA) shall:

- (a) Be pressure demand type (positive pressure);
- (b) Operate in the positive pressure mode only;
- (c) Have a minimum of thirty minutes service duration;
- (d) Be NIOSH/MSHA certified; and
- (e) Meet the requirements of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981, 1992 edition.

(2) Closed circuit SCBA shall:

- (a) Be positive pressure;
- (b) Be NIOSH/MSHA certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Fire departments shall adopt and maintain a written respiratory protection program that addresses the requirements of chapter 296-62 WAC, Part E, Respiratory protection. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional guidance on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection; ANSI Z88.5 - Practices for Respiratory Protection for Fire Service; various NFPA publications (1981, 1404, 1500, etc.), and the Washington State Fire Service Training Program for respiratory training and usage.

(5) When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality quarterly as specified in (23) of this section.

(6) When the fire department makes its own breathing air or uses vendor purchased breathing air, the air quality from compressors, cascade systems cylinders, shall be tested at least quarterly as specified in subsection (23).

(7) Qualitative fit testing shall be conducted.

(a) Each new member shall be tested before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only fire fighters with a properly fitting facepiece shall be permitted by the fire department to function in a hazardous atmosphere with SCBA. (Reference WAC 296-62-07115(3) Respiratory Sealing Problems.)

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) A fit factor of at least 100 shall be obtained.

(f) The fit test procedures and test exercises described in WAC 296-62-07739, Asbestos, Appendix C, shall be followed unless stated otherwise in this chapter.

(g) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Fire fighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If a spectacle, goggle, or face shield must be worn with a facepiece, it shall be worn so as to not adversely affect the seal of the facepiece to the face. See WAC 296-62-07115(3).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all fire fighters who enter into hazardous atmospheres.

(a) Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute positive pressure escape bottle.

(b) The self-contained air supply shall only be used for escape unless the service life of the air supply is greater than fifteen minutes.

(c) If the service life of the self-contained air supply is greater than fifteen minutes, it may be used to enter an IDLH atmosphere breathing from the self-contained air supply, provided that not more than twenty percent of the noted air supply is used during entry.

(11) All fire environments shall be considered IDLH until tested otherwise.

(12) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(13) Air supplied respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous;

(14) Anytime fire fighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(15) Fire fighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(16) Fire fighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the SCBA;

(c) Understanding the safety features and limitations of the SCBA; and

(d) Donning and doffing the SCBA.

(17) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacture of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

function.

(18) Members shall be tested at least annually on the knowledge of SCBA equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records shall remain part of the member training file.

(19) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

Note: The use of long duration (60 minutes) SCBA's should be restricted to operations in tunnels and underground structures, on board ships, and other situations where the need for this capability is demonstrated. The use of such duration SCBA's as the primary attack SCBA increases the weight a fire fighter has to carry and thereby may increase his/her heat stress.

(20) In cases where there is a reported failure of an SCBA the unit shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(21) Fire fighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(22) Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1 - Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 25 ppm or less.

(23) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

(24) Physiological and psychological limitations for respirator wearers. The respirator program administrator or his or her designee, using guidelines established by a physician, shall determine whether or not a person may be assigned to a task requiring the use of a respirator. Persons with physical disabilities such as, but not limited to, respiratory impairments, or claustrophobia when wearing a respirator, shall not be assigned to tasks requiring the use of respirators unless it has been determined by a qualified physician that they are physically able to perform the work and use the equipment. All respirator user's medical status should be reviewed annually.

Additional References:

NFPA 1404, 1989 edition, Fire Department Self-Contained Breathing Apparatus Program.

NFPA 1582, 1992 edition, Medical Requirements for Fire Fighters.

**AMENDATORY SECTION** (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-045 ((First aid kits.))** ~~(((There shall be present at each fire scene or other emergency response location, a first aid kit of packaged supplies, including at least the following items:~~

- ~~1 Bag mask or equivalent~~
- ~~2 Rolls of 3" bandages~~
- ~~4 Combination pads~~
- ~~4 Packaged 4" x 4" dressings~~
- ~~3 Rolls of 1" adhesive tape~~
- ~~1 Eye dressing (1 per package)~~

~~(2) All station houses while manned by employees shall maintain a first aid kit of packaged supplies containing at least the following items:~~

- ~~4 each 4" bandage compresses~~
- ~~4 each 2" bandage compresses~~
- ~~5 each Triangular bandages~~
- ~~2 each Gauze dressings~~
- ~~2 each Wire splints or equivalent~~
- ~~1 pair Bandage shears~~
- ~~1 pair Tweezers~~
- ~~1 package Assorted adhesive bandages~~
- ~~1 package Eye dressing (1 per package))~~ Reserved.

#### NEW SECTION

**WAC 296-305-04501 Automotive fire apparatus design and construction.** (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's.

(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

- (a) 571-121 Standard 121, Air brake systems;
- (b) 571-106 Standard 106, Hydraulic brake hoses;
- (c) 571-211 Standard 211, Wheel nuts, wheel discs, hub caps.

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and WAC 296-24-233.

(4) Fire apparatus tailboards and steps shall have a nonskid rough surface.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the fire fighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

#### NEW SECTION

**WAC 296-305-04503 Automotive fire apparatus equipment.** (1) Vehicles used to transport fire fighters and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, equipment with sharp points and edges shall be covered to prevent injury to fire fighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All persons riding on fire apparatus shall be seated and secured to the vehicle by seatbelts or safety harnesses at any time the vehicle is in motion.

(b) Seatbelts shall comply with U.S. Department of Transportation Part 49 CFR Section 571, Standards 209 and 210.

(c) Riding on tailsteps or in any other exposed position shall be specifically prohibited.

(d) Standing while riding shall be specifically prohibited.

Note: See WAC 296-305-07011(3) for exceptions for wildland vehicles.

(3) Each fire apparatus shall carry a current U.S. Department of Transportation chemical identification book or the equivalent.

(4) Ladders stowed on the sides of apparatus, which protrude past the tailboard, shall have guards over the protruding ends.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.

#### NEW SECTION

**WAC 296-305-04505 Automotive apparatus operational rules.** (1) Each employer of staffed fire apparatus shall establish a written policy and procedure whereby the apparatus has a scheduled daily operational check. Each employer of unstaffed fire apparatus shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to the officer.

(3) Fire fighting apparatus shall be brought to a full stop before employees are allowed to step from the apparatus.

(4) Fire fighters shall not be in the apparatus hose bed while hose is being run out from the bed.

(5) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.

(6) All apparatus over 20,000 pounds (gross vehicle weight) shall utilize wheel blocks when parked at an emergency scene.

(7) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(8) All operators of emergency vehicles shall be trained in the operations of apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department. All operators shall be made familiar with each piece of apparatus before operating equipment for even short periods of time.



(9) Apparatus speed shall be determined to be safe if in the judgment of the officer in charge, the following are taken into consideration:

(a) The particular attack methods being utilized including, but not limited to the nature of the fire, the type of terrain, weather conditions, equipment condition, the number of attack vehicles available, and whether personnel are positioned in wildland fire fighting enclosures;

(b) The forgoing provision shall not relieve the driver from the duty to drive with due regard for the safety of all persons;

(c) Nor shall such provision protect the driver from the consequences of his/her reckless disregard for the safety of others.

(10) When utilizing a ground mobile attack, the walker(s) shall be in either visual or audible communication with the driver while the vehicle is in motion.

#### NEW SECTION

**WAC 296-305-04507 Fire apparatus maintenance and repair.** (1) If at any time a fire apparatus is found to be in an unsafe condition, it shall be reported immediately to the officer on duty.

(2) If in the officer's determination, the apparatus cannot be used in a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.

(3) All repairs and preventive maintenance to fire apparatus shall only be made by personnel deemed qualified by the registered owners of the fire apparatus.

(a) A preventive maintenance program shall be instituted and records maintained for each individual apparatus in order to record and track potential or on-going problems.

(b) A minimum annual service test of apparatus shall be made according to NFPA guidelines relating to pumper apparatus.

(c) Failure of any portion of the annual service test shall constitute the apparatus to be placed out of service until adequate repairs are made and the apparatus successfully completes said test.

#### NEW SECTION

**WAC 296-305-04509 Aerial ladders.** (1) When operating aerial ladders, the manufacturer's suggested procedures shall be followed.

(2) Aerial ladders shall be used according to the following requirements:

(a) The number of fire fighters permitted on aerial ladders shall be in accordance with the manufacturer's instructions.

(b) Aerial ladders shall not knowingly be positioned under dangerous cornices or other loose overhanging objects that may endanger fire fighters and fire fighters working on, or climbing the ladders, except where rescue operations are essential.

(c) When working on, or near energized electrical lines, the following minimum working clearances shall be observed:

(i) For lines rated 50 kv or below, the minimum clearance between the lines and any part of the equipment shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch for each 1 kv.

(iii) For low voltage lines (operating at 750 volts or less), the work shall be performed in a manner to prevent the fire fighters contacting the energized conductor.

(d) Fire apparatus aerial ladders shall be positioned for the greatest stability feasible at the fire scene.

(e) The tip of the aerial ladder shall not be forcefully extended against a solid structure.

(f) Aerial ladders shall not be extended or retracted while fire fighters are climbing the ladder.

(g) Locking in shall not be permitted. If it is necessary for fire fighters to be positioned on the aerial, they shall be secured by a life belt.

(h) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot accidentally be dislodged while in operation.

(i) The operator of the aerial shall remain at the turntable whenever fire fighters are working on the aerial except when it is used as a ground ladder.

(3) The following shall regulate the design and use of the operating turntable and ladder:

(a) Ladders shall be designed to have nonskid protection on the rungs.

(b) Turntable controls and valves for rotating, extending, or elevating the aerial ladder shall be clearly and distinctly marked as to function.

(c) Aerial controls shall be spring loaded and have a safety catch so that the controls shall return to the neutral position if the operator is incapacitated.

(d) The operator of the aerial shall be provided with a nonskid surface on the turntable surface.

(e) A railing of approximately 44 inches in height, and if possible, not less than 36 inches in length, shall be installed on the turntable in back of the operators position.

(f) A light of not less than 10,000 candlepower shall be provided at the base to illuminate the ladder at night in any position of operation.

(4) The following shall regulate the communication systems on the aerial ladder and on the automotive fire apparatus.

(a) A two-way voice communication system shall be installed between the top fly of the ladder and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus shall not be moved unless the proper signal, as shown in Appendix F, is received from the tillerman.

(5) When maintaining the aerial ladder, the manufacturer's instructions shall be followed.

(a) Cables, pulleys, rails and rungs of aerial ladders shall be inspected for wear and tightness on a monthly basis or every ten hours of operating time, whichever comes first.

(b) Pulleys on the aerial with cracks or pieces broken out of rims shall be replaced.

(c) Cables showing evidence of damage or wear shall be replaced.

(d) Rungs or rails that have been subjected to unusual impact shall be tested before usage.

(6) The automotive fire apparatus used in conjunction with aerial ladders shall be designed and used according to the following:

(a) Ground jacks or outriggers shall be deployed before an aerial ladder is put into operation.

(b) Ground plates shall be deployed under the outriggers or jacks at all times.

(c) Hand, airbrakes, and spring brakes for fifth wheel shall be set whenever an aerial ladder is in operation.

(d) In addition to ground jack supports and outriggers, wheel blocks shall be used whenever the aerial is in operation.

(e) Wheel chocks shall be rated by the manufacturer of the chock for the apparatus it is to be used on.

(f) Sand shall be put under jacks and outriggers when operating on ice or snow.

(7) Annual testing of metal aerial ladders shall follow the recommendations of the current National Fire Code.

(a) The aerial ladder, as well as the support section of the apparatus which supports the turntable, shall be nondestructively tested by a certified testing agency every five years.

(b) After any accident that causes structural damage, the test in (a) shall be performed and all defects detected shall be corrected before the apparatus is returned to service.

#### NEW SECTION

**WAC 296-305-04511 Elevated platforms.** (1) Elevated platform system design requirements:

(a) The platform shall have a minimum floor area of fourteen square feet.

(b) The platform shall be provided with a guard railing. The guard railing shall be 42 to 45 inches high on all sides.

(c) The railing shall be constructed so that there is no opening below it greater than 19 inches.

(d) There shall be two gates below the top railing, each of which shall be provided with suitable safety latches.

(e) A kick plate not less than four inches high shall be provided around the floor of the platform.

(f) Drain openings shall be provided to prevent water accumulation on the platform.

(g) A heat-protective shield shall be provided on the platform for the protection of the operator.

(h) Hydraulic or pneumatic systems shall have a minimum bursting strength of at least four times the operating pressure for which the system is designed.

(i) The basic structural elements of the hydraulic or articulating boom shall have a safety factor of three.

(j) Each hydraulic or pneumatic system for the boom shall be equipped with a pilot operated check valve or other appropriate device to prevent free fall in the event of hydraulic failure.

(2) Requirements related to the controlling of elevated platforms:

(a) A control or device shall be provided at both the lower control station and the platform control station to allow either operator to completely deactivate the platform controls.

(b) During the deactivation of the platform controls, the lower controls shall remain operable.

(c) A plate shall be located at the platform control unit or units listing the following information:

(i) Model and serial number of the manufacturer;

(ii) Rated capacity of the platform;

(iii) Operating pressure of the hydraulic or pneumatic systems or both;

(iv) Caution or restriction of operation or both; and

(v) Control instructions.

(vi) This plate shall be clearly visible to the operator at the lower control position.

(d) There shall be an operator at the lower controls at all times while the fire fighter is in the bucket.

(e) The operator at the lower controls shall make certain the fire fighter on the platform is secured by his life belt, or equivalent, before raising the platform.

(3) Testing of elevated platforms and related apparatus shall be conducted annually.

(a) Testing of elevated platforms and related apparatus shall be in accordance with NFPA, Standard for Testing Fire Department Aerial Ladders 1914, 1991 edition.

(b) It is recommended that the boom section as well as the support section of the apparatus which supports the turntable should be nondestructively tested by a certified testing agency every five years.

(c) After any accident that causes structural damage, testing shall be performed and all defects detected shall be corrected before the apparatus is returned to service.

(d) Elevated platform testing shall follow recommendations of the current National Fire Code.

(e) Fire apparatus elevated platforms shall be positioned for the greatest stability feasible at the fire scene.

(4) A two-way voice communication system shall be installed between the platform and the lower control station.

(5) Automotive apparatus used in conjunction with elevated platforms shall be used in accordance with the following:

(a) Hand or air brakes shall be set before the platform is operated.

(b) Jacks or outriggers shall be used if the platform is to be elevated.

(c) Wheel blocks shall also be used when the platform is in operation unless the type of apparatus is one that has wheels that lift off the ground when the jacks or outriggers are engaged.

(d) Ground plates shall be used under the outriggers or jacks.

(e) Sand shall be put under jacks and outriggers when operating on ice or snow.

(f) When working on or near energized electrical lines, the fire department shall develop operational procedures for observing the following minimum working clearances:

(i) For lines rated 50 kv or below, the minimum clearance shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch for each 1 kv.

(iii) For low voltage lines (operating at 750 volts or less), the work shall be performed in a manner to prevent the fire fighters contacting the energized conductor.

(6) Appliances mounted on elevated platforms. Platform mounted monitors shall be operated in accordance with the manufacturer's instructions.

Additional References: WAC 296-24-885.

**NEW SECTION**

**WAC 296-305-05001 Emergency fireground operations—Structural.** (1) The fire department shall establish an incident command system (ICS) with written guidelines applying to all members involved in emergency operations. All members involved in emergency operations shall be familiar with the ICS system. Personnel shall be trained and qualified by their department in the incident command system prior to taking a supervisory role at an emergency scene.

(2) At an emergency incident, the incident commander shall be responsible for the overall safety of all members and all activities occurring at the scene.

(3) All emergency incidents shall be managed by an ICS, the incident commander shall establish an organization with sufficient supervisory personnel to control the position and function of all members operating at the scene and to ensure that safety requirements are satisfied.

(4) At an emergency incident, the incident commander shall have the responsibility to:

(a) Assume and confirm command and take an effective command position.

(b) Perform situation evaluation that includes risk assessment.

(c) Initiate, maintain, and control incident communication.

(d) Develop an overall strategy and attack plan and assign units to operations.

(e) Develop an effective incident organization by managing resources, maintaining an effective span of control, and maintaining direct supervision over the entire incident by creating geographic and functional sectors.

(f) Review, evaluate, and revise the attack plan as required.

(g) Continue, transfer, and terminate command.

(5) The fire department shall develop a risk management policy that can be implemented into the function of incident command and the development of incident strategies.

(a) The risk management policy should include direction and guidance to the incident commander in formulating incident planning relating to the level of risk that may be undertaken in any given incident to save lives and to save property of value in as safe a manner as dictated by the situation.

(b) The policy should contain guidance indicating that the risk to be undertaken in incidents involving property unsavable or of no value should be carefully evaluated by the incident commander.

(6) The fire department shall establish written procedures and guidelines for tracking all members operating at an emergency incident.

(7) The incident command system shall provide for control of access to hazardous areas of the incident scene by department members.

(8) Fire fighters operating in hazardous areas at emergency incidents shall operate in teams of two or more.

(a) Team members operating in hazardous areas shall be in communication with each other through visual, audible, physical, safety guide rope, or electronic means, or by other means in order to coordinate their activities.

(b) Team members shall be in close proximity to each other to provide assistance in case of emergency.

(9) The fire department shall provide personnel for the rescue of members operating at emergency incidents as the need arises.

(10) In the "initial stages" of a structure fire-incident where only one team is operating in the hazardous area, at least one additional fire fighter shall be assigned to stand by outside of the hazardous area where the team is operating.

(a) The responsibility of the standby fire fighter shall be the maintaining awareness of the status of fire fighters in the hazardous area.

(b) The standby fire fighter shall remain in positive communication with the entry team, in full protective clothing with SCBA donned, in the standby mode.

(c) The standby fire fighter shall be permitted to perform other duties outside the hazardous area, provided constant communications is maintained with the team in the hazardous area.

(11) Once subsequent teams are assigned or operating in the hazardous area, the incident shall no longer be considered in the "initial stage," and at least one rapid intervention team shall be required.

(12) The incident commander shall evaluate the situation and the risks to operating teams, and shall provide one or more rapid intervention crews commensurate with the needs of the situation.

(a) A rapid intervention crew shall consist of at least two members and shall be available for rescue of a member or a team if the need arises.

(b) Rapid intervention crews shall be fully equipped with the appropriate protective clothing, protective equipment, SCBA, and any specialized rescue equipment that might be needed given the specifics of the operation underway.

(c) The composition and structure of the rapid intervention crews shall be permitted to be flexible based on the type of incident and the size and complexity of operations.

(13) The fire department shall develop and maintain written guidelines for the safety of members at incidents that involve violence, unrest, or civil disturbance. Such situations may include but not be limited to riots, fights, violent crimes, drug related situations, family disturbances, deranged individuals, and people interfering with fire department operations.

(14) Officers at emergency scenes shall maintain an awareness of the physical condition of members operating within their span of control and ensure that adequate steps are taken to provide for their safety and health. The command structure shall be utilized to request relief and reassignment of fatigued crews.

(15) Wildfire suppression personal protective clothing/equipment shall not be utilized for interior attacks on structures.

(16) Teams in the hazardous area shall have positive communication capabilities with the incident command structure. Incident radio communication capabilities within the incident command structure shall include monitoring of incident-assigned frequencies (including mutual aid radio frequencies).

PROPOSED

(17) Prior to overhaul, buildings shall be surveyed for possible safety and health hazards. Fire fighters shall be informed of hazards observed during the survey.

(18) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent rekindle.

(19) Floation devices shall be made available to fire fighters at incidents where drowning is a possibility. This is not intended to include pools and hot tubs.

(20) Fire fighters shall not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(21) Traffic cones or other traffic control devices shall be utilized when vehicular traffic hazards exist at an emergency operation.

#### NEW SECTION

**WAC 296-305-05003 Confined space rescue operations.** (1) Fire departments engaged in confined space entry or rescue shall comply with chapter 296-62 WAC, Part M.

(2) Fire departments shall establish written procedures/protocols for confined space entry. Fire departments engaged in confined space entry or rescue shall conduct an annual evaluation of the written operational procedures/protocols to ensure compliance with current state and federal requirements.

(3) At confined space incidents, at least two people shall be equipped with appropriate breathing appliances to act as the rescue team.

(a) The rescue team shall remain free of the contaminated area in order to afford rescue for exposed or disabled fire fighters.

(b) The rescue team shall be trained in such rescue operations and, in the abilities and limitations of the breathing appliances in use.

#### NEW SECTION

**WAC 296-305-05005 High angle rescue operations.**

(1) Fire departments engaged in high angle rescue operations shall comply with the requirements of this section and WAC 296-305-02019.

(2) Employees engaged in high angle rescue operations shall be properly trained and qualified by the employer to perform such activities.

(3) Employers shall establish standard operational procedures for high angle rescue activities and training.

(4) When engaged in high angle activities, employees shall be provided and wear either structural fire fighting helmets and gloves, or helmets and gloves designed for, and recognized as, climbing helmets and gloves.

(5) Records shall be maintained of inspections and repairs made to high angle rescue equipment.

(a) Equipment shall be inspected after purchase and prior to placing in service, after each use, and at least semi-annually.

(b) Harnesses shall be inspected for worn or broken stitching, rivets worn out of holes, and damage from abrasion, cuts, or chemicals.

(c) Descending/ascending hardware shall be inspected for wear, cracks, distortion, sharp edges, and ease of operation.

(d) Equipment showing damage or wear that can affect employee safety, shall be either repaired prior to further use or retired.

(6) The manufacturer's recommended shelf life of ropes shall be followed. If no shelf life is specified, ropes greater than six years old, whether used or not, shall be taken out of service or destroyed.

#### NEW SECTION

**WAC 296-305-05007 Trench rescue operations.** (1) Fire departments that engage in trench rescue operations shall adopt and maintain a written response program that addresses training and procedures to follow in emergency life threatening situations.

(2) Employees that engage in trench rescue operations shall be properly trained in operational procedures according to the Washington state accredited sixteen-hour emergency trench rescue course.

#### NEW SECTION

**WAC 296-305-05009 Watercraft rescue operations.**

(1) If a manufacturer's specifications are such that an engineer is required for the operation of a vessel, then one shall be provided.

(2) When fire boats perform rescue activities they shall have two dedicated deckhands.

(3) Watercraft load capabilities shall not exceed the manufacturer's specifications.

(4) Each fire department shall determine the function of their watercraft; as fire fighting, rescue, or both.

(5) Watercraft operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall comply with all of the rules of the United States Coast Guard.

(6) Fire boats operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall have a fully dedicated pilot.

(7) The operator (pilot) of the watercraft is responsible for its safe operation.

(8) Training for all personnel shall represent the intent of the employer and physical characteristics of the vessel involved and shall be included in the employer's accident prevention program.

(a) All assigned personnel shall be trained in safe operation of watercraft and the operations the craft is intended to perform.

(b) All employees involved in water rescue shall be trained in water rescue techniques and wear Coast Guard approved personal flotation devices, Type 2, minimum.

Exception: Employees working below deck or in enclosed cabins.

(9) All employers operating watercraft in nonnavigable waters shall be responsible for training all employees to local hazards.

#### NEW SECTION

**WAC 296-305-05011 Hazardous materials operations.** Fire departments engaged in emergency response to releases of hazardous substances shall comply with chapter

296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

#### NEW SECTION

**WAC 296-305-05013 Aircraft rescue and fire fighting.** Fire departments engaged in aircraft rescue and fire fighting operations shall review NFPA, Manual for Aircraft Rescue and Fire Fighting Operations 402M, 1991 edition.

#### NEW SECTION

**WAC 296-305-05501 Fire training.** (1) All members who engage in emergency operations shall be trained commensurate with their duties and responsibilities. Training shall be as frequent as necessary to ensure that members can perform their assigned duties in a safe and competent manner but shall not be less than the frequencies specified in this standard. Minimum training shall be as specified in this part.

(2) Live structural-fire training: Prior to being permitted to participate in live structure-fire training evolutions, the student shall have received adequate training in safety, protective breathing apparatus, fire hose, nozzles and fire streams, ladders, and rescue as defined by the employer.

(a) Strict safety practices shall be applied to all structures selected for live fire training evolutions.

(b) In preparation for live training, an inspection of acquired buildings shall be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(c) Removal or neutralization of materials of all hazardous storage and conditions within the structure shall be accomplished.

(i) Closed containers and highly combustible materials shall be removed.

(ii) Oil tanks and similar closed vessels that cannot easily be removed shall be vented sufficiently to eliminate an explosion or overpressure rupture.

(iii) Any hazardous or combustible atmosphere within the tank or other vessel shall be rendered inert.

(iv) Hazards potentially dangerous to participants such as floor openings, missing stair tread and rails, and other such hazards shall be repaired or made inaccessible.

(d) If applicable, floors, railings and stairs shall be made safe. Special attention shall be given to potential chimney hazards.

(e) Debris hindering the access or egress of fire fighters shall be removed before continuing further operations.

(f) Buildings that cannot be made safe as required by this section shall not be utilized for interior live fire training.

Note: The water supply for any individual live fire training evolution should be assessed based on the extent of the evolution, size and structure of the building and contents to be involved, method of attack to be employed, protection of exposures and reserves for potential contingencies. Separate sources should be used for supply to attack and backup lines.

(g) Prior to conducting actual live fire training evolutions, a preburn briefing shall be conducted for all participants.

(i) All evolutions shall be discussed and assignments shall be made for all crews participating in the training sessions.

(ii) All participants shall have a knowledge and familiarity with the layout of the building.

(h) A safety officer shall be appointed for all live fire training evolutions.

(i) One person shall be designated to control the materials being burned and to ignite the training fire in the presence and under the direction of the safety officer. This person shall not be a student and shall wear full protective clothing, including SCBA.

(j) Unidentified materials such as debris which may burn in unanticipated ways, react violently, or create environmental hazards, shall not be used in live fire training evolutions.

(k) Each participant in a live fire training evolution shall be equipped with full protective clothing and SCBA. All participants shall be inspected by the safety officer to insure all protective clothing and SCBA are being properly worn prior to entry into a live fire training evolution.

(l) All instructors shall be deemed qualified to deliver structural fire fighting training by the employer. The instructor-student ratio shall not be greater than one to five.

(m) Officers shall make a head count both when entering and exiting a building during an actual attack.

(n) Supervisors at the training evolution shall maintain an awareness of the condition of members operating within the span of their control. They shall ensure adequate steps are taken to provide for the safety and health of the participants and relief or reassignment of fatigued persons.

(3) Fire fighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) When fire fighters are engaged in training above the ten-foot level where use of life lines or similar activities are to be undertaken, a safety net shall be erected or other approved secondary means of fall protection such as recommended in chapter 296-155 WAC, Part C-1, Fall restraint and fall arrest, shall be used in lieu of nets.

(5) When fire fighters are sliding the life line, the life line shall pass through the center of the net and shall be attended by a fire fighter.

(6) During wet training exercises, fire hose meeting the 250 pound annual test shall be used.

#### NEW SECTION

**WAC 296-305-05503 Additional training.** (1) Training on hearing conservation shall conform to chapter 296-62 WAC, Part K, and WAC 296-305-02005.

(2) Training on medical procedures shall conform to WAC 296-305-040.

(3) Training on respiratory equipment shall conform to chapter 296-62 WAC, Part E, Respiratory protection, and WAC 296-305-04001.

(4) Training on employee right-to-know procedures shall conform to chapter 296-62 WAC, Part C, Hazard communication.

(5) Training on overhaul procedures and operations shall conform to WAC 296-305-05001.

PROPOSED

(6) Training on wildland fires shall conform to WAC 296-305-07001 through 296-305-07019.

(7) Training on confined space entry and/or rescue shall conform to chapter 296-62 WAC, Part M, Permit-required confined spaces.

(8) Live fire training in structures shall conform to NFPA 1403 and this section.

(9) The employer shall provide training and education for all members commensurate with those duties and functions that members are expected to perform. Such training and education shall be provided to members before they perform emergency activities. Fire service leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(10) The employer shall assure that training and education is conducted frequently enough to assure that each member is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger members or other employees. All members shall be provided with training at least annually. In addition, members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

(11) The quality of the training and education program for members shall be similar to that conducted by the Washington state protection bureau.

(12) The employer shall inform members about special hazards such as storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water reactive substances, to which they may be exposed during fire and other emergencies. The members shall also be advised of any changes that occur in relation to the special hazards. The employer shall develop and make available for inspection by members, written procedures that describe the actions to be taken in situations involving the special hazards and shall include these in the training and education program.

**AMENDATORY SECTION** (Amending Order 88-11, filed 7/6/88)

**WAC 296-305-060 ((Personal protective equipment and clothing:))** ~~((1) Employers shall provide and maintain at no cost to the employee and assure the use of all protective clothing and equipment required by this standard. When the employer has agreed to provide funds in lieu of the actual clothing and equipment, funding shall be adequate to allow the purchase of such clothes and equipment without cost to the employee. The employer shall assure that the protective clothing ordered or purchased after the effective date of this standard meets the requirements of this standard. Four years after this effective date the employer shall assure that all fire fighters wear protective clothing meeting the requirements of this standard when performing interior structural fire fighting. Wearing anything less than full protective clothing may be allowed by the employer's written policy as set forth in (3)(d) of this section.~~

~~(2) Personal protective equipment and clothing shall be of a type approved by NIOSH, MESA, NFPA, or as required by this section.~~

~~(3) Every fire fighter when working upon fire extinguishment on the emergency fire ground or training fire, shall wear a complete set of equipment and clothing, except when combating grass or wildland fires. Provided, clothing worn in place of full turnouts when fighting grass or wildland fires should comply with the following performance standard:~~

~~(a) Ancillary clothing:~~

~~(i) Flame resistance: When tested in accordance with Federal Test 191, Method 5903.2 "Flame Resistance of Cloth, Vertical" (standard small scale test), the test results shall not exceed the following limits:~~

~~(A) 2.0 seconds after flame~~

~~(B) 4.0 seconds after glow~~

~~(C) 6.0 inches average char length or 4.0 inches~~

~~Ignition of the material shall not produce any melting and dripping of molten or flaming material. It is specifically required that upon exposure to flaming ignition or intense heat, the material will not adhere to the skin of the wearer so as to cause serious skin burns.~~

~~Exception: Ancillary clothing of 100% wool, with a weight of at least 14 ounces per lineal yard of 54 inch width shall be considered to be flame resistant.~~

~~(ii) Laundering: Garments shall be capable of withstanding not less than 50 washings or 25 dry cleanings with no significant changes in fire retardancy.~~

~~(iii) A label must be permanently attached, and shall attest that the fabric has been tested and meets the requirements of this section. The label shall include:~~

~~(A) Lot number~~

~~(B) The name and number of the specified test~~

~~(C) The date of the successful test.~~

~~(b) All turnout clothing placed into service after the effective date of these regulations shall meet the requirements set forth in this standard.~~

~~(c) Ancillary clothing placed into service after the effective date of these regulations shall meet the requirements set forth in this standard.~~

~~(d) The use of ancillary clothing does not exclude each employee from having a full set of turnouts. A written policy and procedure specifying the conditions under which less than a complete set of personal protective equipment and clothing can be worn, such as grass or wildland fires, shall be established by each employer and distributed to both fully paid and volunteer fire fighters.~~

~~(4) Written procedures with regard to repair, maintenance and servicing shall be established for the conservation of personal protective equipment. This provision applies to the fire fighter's personally owned equipment as well as to the employer owned equipment.~~

~~(5) Fire fighters shall wear the personal protective clothing and equipment designated for the task.~~

~~(6) Turnout clothing as defined in WAC 296-305-007.~~

~~(a) New turnout clothing purchased thirty days after the effective date of this chapter shall be manufactured and labeled to comply with the specifications of this chapter and NFPA Standard 1971, 1986 edition, "Protective Clothing for Structural Fire Fighting."~~

~~(b) All turnout clothing used by full-time fire department personnel after January 1, 1989, shall be at least~~

equivalent to the specifications of this chapter and NFPA Standard 1971, 1981 edition.

(c) All turnout clothing used by volunteer fire department personnel after January 1, 1991, shall be at least equivalent to the specifications of this chapter and NFPA Standard 1971, 1981 edition.

(7) Inspection and maintenance:

(a) All turnout clothing shall be inspected by qualified personnel at not less than one hundred eighty day intervals.

(b) Turnout clothing shall be maintained as required by the manufacturer.

(8) Turnout clothing which is damaged or does not comply with this section shall not be used.) Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06001 ((Eye and face protection.))  
Fire service equipment. ((Eye and face protection worn by fire fighters at the fire ground shall comply with the following regulations:

(1) General requirements. Face protection shall be required where there is a reasonable probability of injury that can be prevented by such protection, when such face protection does not protect the eyes from foreign objects additional eye protection shall be provided.

(2) When self-contained respiratory equipment is being utilized by fire fighters, additional eye and face protection will not be required.

Employers shall make conveniently available a type of protection suitable for the work to be performed, and employees shall use such protectors. Protectors shall meet the following minimum requirements:

(a) Provide adequate protection against the particular hazards for which they are designed.

(b) Be reasonably comfortable when worn under the designated conditions.

(c) Be durable.

(d) Capable of being disinfected.

(e) Easily cleanable.

(f) Protectors that can be worn over corrective lenses shall be available for those who need them.

(3) Face shields.

(a) Face shields shall accommodate any of the following styles of windows:

(i) Clear transparent.

(ii) Colored transparent.

(b) Disinfection. When a person is assigned protective equipment, it is recommended that this equipment be cleaned and disinfected regularly.

(c) Face shields must be an integral part of the fire helmet and may be installed in a fixed position or hinged allowing adjustment of the shields.

(d) In the event breathing apparatus is being used which incorporates a face mask, the face mask will be considered an acceptable face shield.

(4) Goggles, flexible, or cushioned fitting. Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(a) Materials used shall be chemical resistant, nontoxic, nonirritating and slow burning.

(b) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortable and snugly in front of the eyes.

(5) Design, testing and use of devices for eye and face protection shall be in accordance with current ANSI Z87.1 Occupational Eye and Face Protection.) (1) All portable equipment shall be inspected prior to, and after use.

(2) Any defective equipment shall be removed from service.

(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of one-inch nylon, or equivalent belting, with a four-inch overlap and sewn with polyester thread and shall measure at least 102 inches on the outside circumference.

(4) The load capacity shall be stenciled on each portable jack and the load capacity shall not be exceeded.

(5) The instruction plate on portable jacks shall be maintained in a legible condition.

(6) Portable powered cut-off saws (rescue saws) shall be used in accordance with the manufacturer's recommendations.

Exception: The lower blade guard described in WAC 296-24-65501 (1)(a) is not required on hand-held portable powered cut-off saws used by fire/rescue personnel for rescue procedures and/or roof ventilation for smoke removal, provided the operator is wearing appropriate eye, face, head, and body protection as specified in WAC 296-305-02001 through 296-305-02013. This exception also applies to qualified persons (e.g., instructors) wearing personal protective equipment as described herein to instruct personnel in safe roof ventilation/rescue techniques.

(7) When not in use, the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.

(8) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.

(9) The guards on smoke ejectors, as supplied by the manufacturer, shall not be removed and the operator of the ejector shall wear gloves.

(10) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with the Compressed Gas Association Pamphlet G-1 - 1966 edition.

(11) Powder activated life-line guns and accessories shall be stored in a box or container equipped with a lid or cover.

(a) The box shall be kept closed when not in use.

(b) A loaded life-line gun shall not be placed in the storage box.

(c) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life-line gun storage box.

(d) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(12) Abrasive blades in storage shall be protected from contact with water, liquids, petroleum products and their fumes.

(13) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06003 ((Hearing protection.)) Testing fire service equipment. ((The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall be applicable whenever personnel are exposed to noise levels above the permissible limits including at the fire station, while in transit or at a fire scene.)) (1) When testing fire hose, a restricted orifice disc having not more than a 25% opening, shall be installed on the pumper discharge port. Or in the alternative, the pumper discharge valve may be opened not more than 25% to insure a minimum volume of water in case of a bursting hose.

(2) Safety nets shall be tested annually by dropping a weight of not less than 160 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of two and one-half inch hose, each 100 feet long, or any other object having similar weight and dimension.

(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum, shall withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(c) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three fire fighters on the net.

(d) Safety nets shall extend eight feet beyond the edge of the work surface.

(e) The mesh size of nets shall not exceed six inches by six inches.

(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.

(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(3) Life belts shall meet or exceed the strength requirements of ANSI A10.14 - Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(4) Rescue ropes shall be used for rescue purposes only.

(5) Rescue ropes shall meet the following requirements:

(a) Rescue ropes shall be constructed of rot-proof fiber with a melting point of not less than 400 degrees F;

(b) They shall be of abrasion resistant construction;

(c) They shall have a minimum breaking strength of not less than 9,000 pounds; and

(d) They shall have a breaking elongation of not less than twenty percent.

(6) Rescue ropes shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(7) The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06005 ((Hand protection.)) Ground ladders. ((Any gloves purchased after the effective date of these standards shall meet the following criteria:

(1) Hand and wrist protection at the fire combat scene and during overhaul work shall consist of gloves or a glove system which complies with the requirements of this section.

(2) Gloves purchased after January 1, 1989, shall comply with NFPA Standard, 1973, 1983 edition.

(3) Gloves used after January 1, 1991, shall comply with NFPA Standard 1973, 1983 edition.

(4) Gloves used between January 1, 1989, and January 1, 1991, may comply with either NFPA Standard 1973, 1983 edition, or the 1976 NIOSH criteria document, Volume II: Glove Criteria and Test Methods.

(5) Fire fighters engaged in activities creating hazardous exposures to electricity shall wear approved hand protection.

(a) Electrical rubber gloves guaranteed by the manufacturer to pass a minimum dielectric test of 10,000 volts shall be worn.

(b) Rubber gloves shall be numbered and records kept for test purposes.

(c) Rubber gloves shall be tested by the following maximum retesting schedule:

	Natural Rubber (Months)	Synthetic Rubber (Months)
Rubber Protective Gloves		
New	12	18
Reissued	9	15

After use, the rubber protective gloves shall be cleaned, sanitized, tested and restored for future use. The test after use shall consist of an air pressure test which is performed by grasping the cuff at opposite sides and twirling the glove so as to roll it up the cuff to produce air pressure within the glove. The glove shall be inspected for leaks, cuts, abrasions and thin places in the rubber. Patching or vulcanizing of rubber protective gloves is prohibited. Any rubber gloves found to be defective shall be removed from service and marked as being defective.

(d) Protector gloves must be worn at all times over electrical rubber gloves.

(e) Electrical rubber gloves, when not in use, shall be carried in a suitable bag provided and designed for that purpose.

(f) When electrical rubber gloves are transported on apparatus, a compartment or box shall be used to store the gloves. No other equipment shall be placed in this compartment or box.)) This section establishes the minimum requirements for the construction, care and use of the common types of ladders used in fire combat.

(1) Ladder locks or pawls on extension ladders shall be so fastened or secured to the beams that vibration and use will not cause loosening of bolts and nuts.

(a) Pawls or ladder locks shall be so constructed that the hook portion of the pawl that engages the rung shall have sufficient bearing surface or area to prevent the hook from cutting into rungs when engaged.

PROPOSED



(b) Such hooks shall be properly finished to eliminate sharp edges and points.

(2) Staypoles or tormenters shall be furnished on all extension ladders extending over forty feet. Staypole or tormenters spikes shall not project beyond the end of the ladder when nested.

(3) All ladders shall be stored in a manner to provide ease of access for inspection, and to prevent danger of accident when withdrawing them for use.

(4) Fire fighters shall climb and descend ground ladders with the fly in, for safety purposes.

(5) All ladders regardless of type shall be inspected thoroughly after each use. Records shall be kept of the inspections and repairs.

(6) The following metal ladder components shall be checked:

(a) Rungs for welds, damage or weakness caused by overloading or bumping against other objects, looseness and cracks, etc.

(b) Beams for welds, rivets and bolts, signs of strain or metal fatigue, and deformation from heat or overloading.

(c) Bolts and rivets for tightness.

(d) Butt spurs for excessive wear or other defects.

(e) Halyards for the same defects listed for wood ladder halyards and cable halyards, for fraying or breaking.

(f) Heat sensor label, when provided, for change indicating heat exposure.

(7) The following wood ladder components shall be checked:

(a) Bolts for snugness and tightness without crushing the wood.

(b) Beams for dark streaks; when a wood ground ladder develops dark streaks in the beams, the ladder shall be removed from service and service tested as specified in this chapter, prior to further use.

(c) Protective varnish finish for damage or wear, at least once a month and redone annually or at such frequency as specified by the manufacturer. If the protective finish becomes charred or blistered, the ladder shall be removed from service and service tested as specified in this chapter, prior to further use.

(8) Methods of fastening ladder halyards, either of wire or fibrous material, shall be in a manner that the connection is stronger than the halyard.

(9) Any defect noted in above visual inspection shall be corrected prior to testing.

(10) Every portable ladder shall be tested following the correction of defects disclosed by the visual inspections.

(11) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the requirements of NFPA Standard 1931, 1984 edition.

(12) All fire ground ladders shall be inspected, tested, and maintained in accordance with the requirements of NFPA Standard 1932, 1984 edition.

Exception: Extension ladders that were constructed prior to the adoption of the 1984 edition of NFPA 1931, may, when tested in accordance with this chapter, be tested with a minimum test load of 400 pounds and a preload of 300 pounds. Ladders tested under this exception shall be used with a maximum load limit of 500 pound distributed or 400 pound concentrated. Ladders shall be tested in the configuration they are used.

Note 1: Hardness testing and eddy current NDE testing is not required in the fire department annual maintenance inspection unless the individual ladder has been subjected to a high heat exposure which could have annealed the metal and diminished the structural integrity. The ladder manufacturer's recommendations should be followed with respect to hardness and eddy current testing.

Note 2: Testing should follow the recommended procedures taught by Washington State Fire Prevention Bureau.

Additional References: Chapter 296-24 WAC, Part J-1.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06007 ((Foot protection.)) Electrical. ((1) Fire fighters' footwear when worn under fire combat conditions shall meet the following criteria:

(a) Protective footwear shall be water resistant for at least five inches above the bottom of the heel. Puncture resistant and rust resistant midsole that meet the puncture resistant requirements of MIL-B 2885, Specification for fire fighter's boots.

(b) Safety toe able to withstand current ANSI classification Z41.1 at time of purchase.

(c) Reinforced ladder shank in turnout boots.

(d) Sole shall provide nonskid protection.

(e) Hip high boots shall have heat resistant knee protection or equivalent in addition to above requirements. Hip high boots may be worn with ancillary clothing in lieu of turnout pants.

(2) Fire fighters' boots may be resoled but the boot upon resoling shall meet the requirements as set forth in this section.

(3) This section shall apply to volunteer fire fighters for any new equipment purchased.)) (1) Temporary lighting with the use of 110 - 120 VAC equipment.

(a) All lighting equipment shall be used with heavy duty flexible (extension) cords with 12-3 conductors and SJTW jacket, or equivalent.

(b) Electrical cords shall have weather tight bodies and caps, 20 amp rated at 120 VAC.

(c) Temporary lights that are used in moist, damp, and/or other hazardous locations shall be approved for the purpose.

(d) Temporary lights shall be constructed so that water cannot enter or accumulate in wireways, lampholders or other electrical parts.

(e) Temporary lights that are used in moist and/or other hazardous locations shall have 120 VAC single-phase 15 and/or 20 amp in-line resettable ground fault circuit interrupters.

(f) Temporary lights shall be equipped with a handle and be insulated from heat and possible electrical shock.

(g) Temporary lights shall not be suspended by their electrical cords unless cords and lights are designed and labeled for this means of suspension.

(h) Temporary lights shall be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb.

(2) 120 VAC cord reels shall be approved for use in damp or hazardous locations.

(a) Bodies and caps shall be weather tight, 20 amp rated at 120 VAC.

(b) Cords on cord reels that do not exceed 150 feet in length shall be 12-3 SJTW or equal.

(c) Cords that exceed 150 feet in length on reels, shall have 10-3 conductors.

(d) Cord reels that are not permanently mounted on a vehicle shall be insulated from the ground when in use.

(3) Twelve volt portable type hand lanterns shall be constructed of molded composition or other type approved for the purpose.

(a) Portable hand lanterns used in moist and/or other hazardous locations shall be operated at a maximum of 12 volts.

(b) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lamp-holder.

(4) Portable and vehicle-mounted generators.

(a) Portable generators. Under the following conditions, the frame of a portable generator shall not be required to be grounded and shall be permitted to serve as the grounding electrode for a system supplied by the generator:

(i) The generator supplies only equipment mounted on the generator or cord-connected and plug-connected equipment through receptacles mounted on the generator, or both, and

(ii) The noncurrent-carrying metal part of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(b) Vehicle-mounted generators. Under the following conditions, the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame; and

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator; and

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

Additional References: Article 250 National Electrical Code. Chapter 296-24 WAC, Part L.

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

WAC 296-305-06009 ((Body protection.)) ((1) Body protection shall be coordinated with foot and leg protection to ensure full protection for the wearer. This shall be achieved by one of the following methods:

(a) Wearing of a fire resistive coat with fully extended hip boots meeting the requirements of WAC 296-305-06007; or

(b) Wearing of a fire resistant coat with fire resistant trousers; or

(c) Wearing of ancillary clothing as specified in WAC 296-305-060 (3)(a) of this chapter.

(2) Fire resistant coat and trousers shall be at least equivalent to the requirements of the NFPA Standard #1971, protective clothing for structural fire fighters.)) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06011 ((Head protection.)) ((1) Head protection shall consist of a protective head device with chin strap. Ear flaps are optional. All protective head devices shall meet the performance, construction and testing requirements for configuration, frame and head construction, electrical insulation and visibility and reflectivity as established by the National Fire Prevention and Control Administration of the United States Department of Commerce and contained in "Model Performance Criteria for Structural Firefighters Helmets" printed August 1977.

(2) All helmets used by fire department personnel after January 1, 1991, shall be equivalent to the specifications of this chapter and NFPA 1972, 1980 edition.

(3) All helmets purchased thirty days after the adoption of this chapter shall be manufactured and labeled as complying with the specifications of this chapter and NFPA 1972, 1987 edition.

(a) Helmets shall be maintained in accordance with the manufacturers recommendations.

(b) Helmets which are damaged or do not comply with this section shall not be used.)) Reserved.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-305-063 ((Respiratory equipment.)) ((1) Approved self-contained respiratory equipment shall be available and used by all employees who enter into hazardous atmospheres. Filter canister masks are not approved.

(2) Respiratory protection equipment used in fire combat situations shall be classified as self-contained pressure demand type and shall have a minimum rating of one-half hour nominal service life.

All respirators using compressed air shall have an audible warning device which will activate when the air pressure drops below twenty percent of the rated capacity.

(3) In structural or confined space fires at least one person trained in the use of self-contained breathing equipment and equipped with such equipment shall remain free of the contaminated area in order to afford rescue potential for exposed, disabled fire fighters.

(4) The respiratory protection requirements of the general occupational health standards—safety and health standards for carcinogens, chapter 296-62 WAC, shall apply. A respirator program shall be developed which includes standard operating procedures addressing the following:

(a) Respiratory equipment inspections. The step by step inspection procedures included in the Washington state fire service training program shall be considered the criteria for a minimum inspection procedure.

(b) Breathing air cylinder filling and testing. Only personnel trained, experienced, and knowledgeable in the equipment and procedures shall fill or test air cylinders.

(c) Respiratory equipment training.

(i) Training shall address the same subjects as those covered by the Washington state fire service training program and shall involve at least the same number of hours.

(ii) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacture of respirator available for use, the step by step proce-

cedure for donning the respirator and checking it for proper function.

(5) At the end of suppression activities to include fire overhaul and before returning to quarters:

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities result in exposure to hazardous substances.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain an uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(c) The effective date of this item shall be nine months after the effective date of this section.) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-064 ((Fire overhaul.)) ~~((1) Training shall be provided to fire fighters and officers in order that they will be knowledgeable in the identification and handling of asbestos containing materials likely to be encountered during a fire response.~~

~~(2) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent the rekindle.)~~ Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-065 ((Requirements for fire stations.)) ~~((All of WAC 296-305-065 pertains to fire stations as defined in WAC 296-305-007.))~~ Reserved.

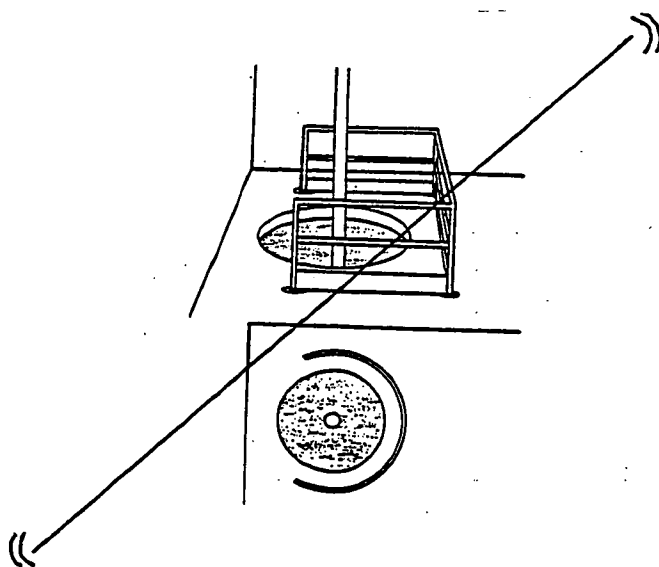
AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06501 ((General)) Requirements for fire station facilities. ~~((1) Every new fire station built after the effective date of this standard, whether manned or unmanned shall be equipped with an approved emergency lighting system that will light dormitories, hallways and apparatus bay areas in case of electrical power failure.~~

~~(2) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.~~

~~(3) Stations and administrative offices shall comply with the requirements of WAC 296-62-09003, Lighting and illumination of the Washington state general occupational health standards.~~

~~(4) Where sliding poles are used the pole hole shall be guarded in such a manner as to prevent an employee or employer from walking directly into the pole hole opening.~~



~~(5) To absorb the shock to sliding employees, the bottom of all slide poles shall have a 3-foot diameter cushioned rubber mat, or its equivalent. The aforementioned shall be complied with within one year of the effective date of this chapter.~~

~~(6) Nothing shall be stored or placed at the bottom of a pole hole for a radius of 3 feet from the pole. Doors shall not protrude within three feet of the pole.~~

~~(7) The requirements of WAC 296-24-145 shall be followed when employees are engaged in window washing operations.~~

~~(8) When charging batteries the vent caps shall be kept in place to avoid electrolyte spray. Care shall be taken to assure that vent caps are functioning.~~

~~(9) Smoking shall be prohibited in the battery charging area.)~~ WAC 296-305-06501 through 296-305-06519 pertain to all fire department facilities as defined in WAC 296-305-01005.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06503 ((Sanitation.)) General requirements. ~~((1) Toilet facilities.~~

~~(a) General:~~

~~(i) Except as otherwise indicated in this section, toilet rooms separate for each sex shall be provided in all places of employment in accordance with Table B-1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of Table B-1.~~

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TABLE B-1

Number of employees on duty:	Minimum number of water closets
1 to 15	1
16 to 35	2
36 to 55	3
56 to 80	4
81 to 110	5
111 to 150	6
Over 150	One additional fixture for each additional 40 employees

(A) Where toilet facilities will not be used by women, urinals may be provided instead of water closets and in such cases shall not be reduced to less than 2/3 of the minimum specified.

(ii) The requirements of item (i) of this subdivision do not apply to mobile crews or to normally unattended work locations so long as employees working at these locations have transportation immediately available to nearby toilet facilities which meet the other requirements of this section.

(iii) The sewage disposal method shall not endanger the health of employees.

(iv) Toilet paper with holder shall be provided for every water closet.

(b) Construction of toilet rooms. Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures sufficiently high to assure privacy.

(2) Drinking water.

(a) A common drinking cup and other common utensils are prohibited.

(b) Drinking fountain surfaces which become wet during fountain operation shall be constructed of materials impervious to water and not subject to oxidation. The nozzle of the fountain shall be at an angle and so located to prevent the return of water in the jet or bowl to the nozzle orifice. A guard shall be provided over the nozzle to prevent contact with the nozzle by the mouth or nose of persons using the drinking fountain. The drain from the bowl of the fountain shall not have a direct physical connection with a waste pipe, unless it is trapped.

(3) Washing facilities.

(a) General. Facilities for maintaining personal cleanliness shall be provided. These shall be convenient for the employees for whom they are provided and shall be maintained in a sanitary condition.

(b) Lavatories.

(i) Lavatories shall be made available in accordance with the following table.

	Number of employees on duty	Minimum number of lavatory fixtures
Nonfire fighting personnel	1 to 15 16 to 35 36 to 60 61 to 90	1 2 3 4
Firefighters	1 to 100	1 fixture for each 10 employees

Note: In a multiple-use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory.

(ii) Each lavatory shall be provided with hot and cold running water, or tepid running water.

(iii) Hand soap or similar cleansing agents shall be provided.

(iv) Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

(v) Receptacles shall be provided for disposal of used towels.

(c) Showers.

(i) Except as otherwise indicated in this section, shower rooms separate for each sex shall be provided in manned stations. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where shower rooms will be occupied by no more than one person at a time and can be locked from the inside, separate shower rooms for each sex need not be provided.

(ii) One shower shall be provided for each 10 employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

(iii) Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in this section.

(iv) Showers shall be provided with hot and cold water feeding a common discharge line.

(v) Shower floors shall be equipped with rubber mats or nonskid material.

(vi) Light switches and electrical appliances in the shower area shall be of the approved type for wet locations and shall not be located where they can be contacted by employees standing directly in water.)) (1) Stations and administrative offices shall comply with the requirements of the general occupational health standards, WAC 296-62-09003, Lighting and illumination.

(2) Every new fire station built after the effective date of this chapter, whether manned or unmanned, shall be equipped with an approved emergency lighting system that will light dormitories, hallways, and apparatus bay areas in case of electrical power failure.

(3) No new fire station or new addition to an existing fire station, shall incorporate sliding poles or slides in their design or construction.

(4) The requirements of chapter 296-24 WAC, Part B-2, Window washing, shall be followed when employees are engaged in window washing operations.

(5) All new fire stations and other new fire department facilities which contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(6) All existing fire stations and existing fire department facilities with sleeping quarters, that undergo a major renovation that consists of more than sixty percent of the assessed evaluation of the existing structure shall be fully protected with automatic sprinkler systems.

(7) Eye protection shall be worn when charging, changing or adding fluid to storage batteries. Personnel that will be charging storage batteries shall be qualified to

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perform this function by the employer. See WAC 296-24-23015.

(8) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(9) In existing facilities where sliding poles or slides are used, the pole or slide hole shall be guarded in such a manner as to prevent anyone from walking directly into the pole or slide hole opening.

(10) To absorb the shock to sliding employees, the bottom of all slide poles or slides shall have a three-foot diameter cushioned rubber mat, or its equivalent.

(11) Nothing shall be stored or placed at the bottom of a pole or slide hole for a radius of three feet from the pole. Doors shall not protrude within three feet of the pole or slide.

(12) Stair and landing protection: Stairways, guardrails, landings, and handrails shall be constructed to the requirements of chapter 19.27 RCW the State Building Code Act, and chapter 296-24 WAC, Part J-1.

(13) A standard guard railing for a landing platform shall include a toeboard, which is a vertical barrier, at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(14) Any new facility, or addition, alteration, or repair to an existing facility shall be in compliance with chapter 19.27 RCW, the State Building Code Act.

(15) New stations containing a kitchen, and station kitchens remodeled after the date of this chapter, shall have an alarm activated service disconnect of fixed cooking appliances.

#### AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06505 ((Sleeping)) Sanitation, disinfection, cleaning, and storage areas. ((1) Every fire station sleeping area shall be provided with approved detectors of products of combustion other than heat conforming to Uniform Building Code Standard 43-6, mounted in the sleeping room and on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. Where sleeping rooms are on an upper level, a detector shall be placed at the center of the ceiling directly above the stairway and at the top of the pole hole openings. All detectors shall be located within 12 inches of the ceiling. Care shall be exercised to insure that the installation will not interfere with the operating characteristics of the detector. When activated, the detector(s) shall provide an audible alarm.

(2) Smoking shall not be allowed in sleeping area after fire fighters turn in.

(3) Dormitories for fire stations designed after December 17, 1977, shall be located in such a position that vehicular traffic adjacent to the station house does not present a hazard.

(4) The employer shall establish and implement a schedule for the cleaning of bedding.)) (1) Fire departments shall provide facilities for disinfecting, cleaning, and storage.

Note: This does not mean that every fire station must have a dedicated cleaning area. A fire department may have one designated cleaning area which will serve the needs of several fire stations.

(2) A designated cleaning area shall be provided for each fire station for the cleaning and disinfecting of protective clothing, protective equipment, portable equipment, and other clothing.

(a) Fire departments that engage in emergency medical operations shall provide or have access to disinfecting facilities for the cleaning and disinfecting of emergency medical equipment.

(b) Disinfecting shall not be conducted in fire station kitchen, living, sleeping, or personal hygiene areas.

(c) Disinfecting facilities in fire stations shall be vented to the outside environment, and designed to prevent contamination of other fire station areas.

(d) Disinfecting facilities shall contain a sink with hot and cold water faucets and a sprayer attachment. Sink faucets shall not require the user to grasp, with hands to turn on or off. All surfaces shall be nonporous material.

(3) Protective clothing or equipment that needs to be decontaminated and/or disinfected shall not be allowed in any kitchen, living, sleeping, or personal hygiene area.

(4) The designated cleaning area shall be physically separate from areas used for food preparation, cleaning of food and cooking utensils, personal hygiene, sleeping, and living areas.

(5) Drying areas for protective clothing shall be well ventilated.

(6) Storage Areas: Emergency medical supplies and equipment stored in fire stations, other than that stored on vehicles, shall be stored in a dedicated enclosure and maintained per manufacturer's instructions.

(7) Reusable emergency medical supplies and equipment, protective clothing, and protective equipment shall not be stored in kitchen, living, sleeping, or personal hygiene areas, nor shall it be stored in personal clothing lockers.

#### AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06507 ((Apparatus)) Sleeping areas. ((1) Three feet of clearance shall be maintained around apparatus parked within the station where the station's width permits.

(2) Stations built after December 17, 1977, shall have a minimum of three feet of clearance around the apparatus, which shall be maintained free of any storage or obstruction.

(3) The station's apparatus floors shall be kept free of grease, oil, water and all tripping hazards. The drying of hose on the apparatus floor shall not be considered a tripping hazard.

(4) No Class I or II flammable liquids shall be used for cleaning purposes to remove grease or dirt from apparatus.

(5) Exhaust fumes from diesel or gasoline apparatus shall be emitted to the outside air. Ventilation provided by fully opened apparatus bay doors shall be considered adequate.)) (1) All sleeping areas in fire stations shall be separated from vehicle storage areas by at least one-hour fire resistive assemblies.

(2) Sleeping areas shall be protected by smoke detectors.

(3) The sleeping quarters in all new fire stations and other fire department facilities that contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(4) The sleeping quarters in all existing fire stations, and existing fire department facilities with sleeping quarters that undergo a major renovation consisting of more than sixty percent of the assessed evaluation of the existing structure, shall be fully protected with automatic sprinkler systems.

Note: With the concurrence of the local building official(s) or fire marshal, the requirements of (3) and (4) may be satisfied with sprinkler systems that meet the requirements of NFPA 13D, 1994 edition.

(5) Compliance with this section shall be required within three years of the effective date of this chapter.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06509 ((Refueling)) Apparatus areas. ((1) Refueling pumps, if installed, shall be in accordance with the provisions of the Uniform Fire Code 1985.

(2) Dispensing of Class I liquids shall be as required in the Uniform Fire Code 1985.

(3) Fuel tanks shall not be filled while the engine is running, except during fire ground operations. Spillage should be avoided.

(4) Spillage of oil or fuel shall be carefully washed away or completely evaporated and the fuel tank cap replaced before restarting engine.

(5) Fueling areas shall be posted "NO SMOKING STOP YOUR MOTOR.") (1) Three feet of clearance shall be maintained around apparatus parked within the station where the station's width permits.

(2) All fire stations built after December 17, 1977, shall have a minimum of three feet of clearance around the apparatus, which shall be maintained free of any storage or obstruction.

(3) The station's apparatus floors shall be kept free of grease, oil, water and tripping hazards.

(a) The drying of hose on the apparatus floor shall not be considered a tripping hazard.

(b) Floors shall have slip-resistant surfaces on areas where personnel would normally mount or dismount apparatus.

(4) No Class I or Class II flammable liquids shall be used for cleaning purposes to remove grease or dirt from apparatus.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06511 ((Hose drying towers.)) Indoor air quality. ((1) The floor openings on hose tower platforms shall be equipped with a 42-inch guardrail with midrail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail.

(2) The toeboard requirements for elevated work platforms in hose drying towers shall not apply unless hand tools or objects other than hoses are carried onto the platforms.

(3) The requirements for offset ladder platforms and ladder edge guards, when ladders extend beyond 30 feet, shall apply to hose drying towers.

(4) Ropes used to hoist hose in the hose towers shall have a breaking strength of 3,000 pounds for a safe load strength of 600 pounds (5 to 1 safety factor.) Air quality shall be consistent with WAC 296-62-075 through 296-62-07515, Air contaminants and WAC 296-62-12000 through 296-62-12009, Environmental tobacco smoke in office work environments.

Note: For extended work shifts all eight-hour PEL's shall be time-weighted to adjust for additional worker exposure during extended work shifts.

(1) If indoor air monitoring indicates over-exposure to contaminant PEL's, engineering controls shall be utilized to reduce fire fighter exposure to the lowest feasible level.

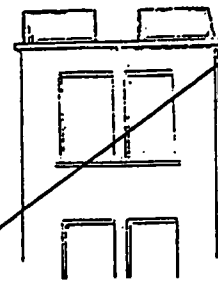
(2) All fixed internal combustion equipment such as, but not limited to emergency generators, shall be effectively exhausted to the exterior of the fire stations.

(3) All facilities dedicated to the maintenance and repair of internal combustion equipment shall have means for effective ventilation to the exterior of the building.

(4) All fire stations built after January 1, 1997, shall be designed and constructed to conform to ACGIH ventilation recommended criteria for exhaust of internal combustion engines.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06513 ((Drill towers.)) Refueling areas. ((1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder edge guards.



(1) Refueling pumps, if installed, shall be in accordance with the provisions of the Uniform Fire Code and WAC 296-24-33015.

(2) Dispensing of Class I liquids shall be as required in the Uniform Fire Code.

(3) Spillage of oil or fuel shall be properly disposed of or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) Fueling areas shall be posted - "NO SMOKING - STOP YOUR MOTOR."

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06515 ((Fire station equipment and tools.)) Hose drying towers. (((1) Equipment and tools in maintenance and hobby shops shall be guarded as required by the guarding provisions of chapter 296-24 WAC.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, shall be guarded as required by WAC 296-24-18003.

(b) Abrasive wheel machinery guards shall meet the design specifications of the American National Standard Safety Code for the Use, Care and Protection of Abrasive Wheels, ANSI B7.1-1970. This requirement does not apply to natural sandstone wheels, or metal, wooden, cloth or paper discs having a layer of abrasive on the surface.

(c) Before it is mounted on the spindle, each abrasive wheel shall be given a "ring test" by the user. This test is performed by setting the unmounted wheel upright on a clean, hard floor and tapping it on the upper side with a light, nonmetallic instrument (such as screwdriver handle). A clear ringing tone indicates an undamaged wheel. A damaged, cracked wheel will emit a "dead" sound and shall be replaced.

(d) Grinding wheels shall fit freely on the spindle and remain free under all grinding conditions. The wheel hole shall be sufficiently larger than the spindle diameter to assure safety clearance under all conditions of operating heat and pressure.

(e) Before mounting, the user shall check the maximum operating speed marked on the wheel, and shall make certain that spindle speed does not exceed this maximum.

(f) All contact surfaces of wheels, blotters and flanges shall be flat and free of foreign matter.

(g) When a bushing is used in the wheel hole, it shall not exceed the width of the wheel and shall not contact the flanges.

(h) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.

(i) Goggles or face shields shall be used when grinding.

(j) Abrasive and composition blades shall be stored and protected against exposure to fuel and oil.)) (1) The floor openings on hose tower platforms shall be equipped with a forty-two inch guardrail with mid-rail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail. The work platform shall be equipped with toeboards.

(2) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond twenty feet, shall apply to hose drying towers.

(3) Ropes and attachments used to hoist hose in the hose towers shall have a breaking strength of 1500 pounds for a safe load strength of 300 pounds (five-to-one safety factor).

(4) Approved head protection shall be worn by all persons in the hose tower whenever hose handling/hanging operations are taking place.

(5) Ropes utilizing a pulley block shall be appropriately sized for the sheave to prevent possible jamming or damage to the rope.

Additional Reference: Chapter 296-24 WAC, Part J-1.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06517 ((Stair and landing protection.)) Drill tower training facilities. (((1) Stairway railings and handrails. Every flight of stairs having four or more risers shall be equipped with standard stair railings or standard handrails as follows:

(a) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending.

(b) On stairways less than 44 inches wide having one side open, at least one stair railing on open side.

(c) On stairways less than 44 inches wide having both sides open, one stair railing on each side.

(d) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side.

(e) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.

(2) A standard guard railing shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of 36 to 42 inches from upper surface of top rail to floor, platform, runway, or ramp level. The top rail shall be smooth surfaced throughout the length of the railing. The intermediate rail shall be approximately halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(3) A standard guard railing for a landing platform shall include a toeboard which is a vertical barrier at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(4) A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than 34 inches nor less than 30 inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.)) (1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(2) Drill tower construction and operations shall comply with the following:

(a) Burn buildings used for live fire training shall be engineered for such use.

PROPOSED

(b) Drill towers shall not be used for live fire training except when burn rooms are provided.

(c) Burn rooms, if included in the building, shall be engineered into drill towers.

(d) All walking surfaces in the drill tower shall be slip resistant.

(e) Railings shall be designed with a four-to-one safety ratio for 250 pound fire fighters who may be operating a charged hose line on the fire escape.

(f) Rappelling anchors shall be engineered to support 5000 pounds per person supported by the anchor.

(g) Rappelling anchors shall be readily identifiable.

(h) Rappelling anchors shall be certified by a structural engineer.

#### NEW SECTION

**WAC 296-305-06519 Fire station equipment and tools.** (1) Equipment and tools in maintenance and hobby shops shall be guarded as required by the guarding provisions of chapter 296-24 WAC, Part C, Machine guarding, and Part H-1, Hand and portable powered tools.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. This provision shall not apply to residential ceiling fans.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, shall be guarded as required by chapter 296-24 WAC, Part C.

(b) Goggles or face shields shall be used when grinding.

(c) Abrasive and composite blades shall be stored and protected against exposure to fuel and oil.

(d) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-070 ((Automotive fire apparatus.))  
((All of WAC 296-305-070 pertains to fire apparatus as defined in WAC 296-305-007.)) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-07001 ((Design and construction.))  
Wildland fire operations. ((1) All fire apparatus with the exception of specialized equipment, shall conform to the minimum safety standards contained in N.F.P.A. Booklet No. 1901.

(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following department of transportation standards, when applicable:

(a) 571-121 Standard 121, Air brake systems;

(b) 571-106 Standard 106, Hydraulic brake hoses;

(e) 571-211 Standard 211, Wheel nuts, wheel discs, hub caps.

(3) Employers purchasing used fire apparatus or used military equipment shall not be required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exception to this rule would be seat belts and communication systems between the tailboard or tiller's seat and driver compartment as stipulated in WAC 296-305-07003(2), 296-305-07007(1), 296-305-105(5)(a) and (b), and 296-305-110(4).

(4) Where practicable for the intended application and use, new apparatus purchased after December 17, 1977, shall have covered crew cabs.

(5) Fire apparatus tailboards and steps leading to the cab shall have a nonskid rough surface.

(6) Shields shall be provided for individuals who ride the side of city service apparatus to protect them from flying debris and weather.

(7) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to eliminate the exposure of the fire fighter to the exhaust gases and fumes.

(8) Spinner knobs shall not be attached to steering handwheels of fire apparatus.

(9) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(10) The height of the apparatus from the ground to the top of the beacon or highest point of apparatus shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.)) (1) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) This section shall not apply to suppression action taken on fires prior to the fire meeting the definition of a "wildland fire."

(3) Employers shall provide at no cost to the employee, protective equipment and protective clothing as required by this chapter.

(4) Suppression personnel assigned to a wildland fire shall be trained to a NWCGW fire fighter, Level II, or equivalent. See WAC 296-305-07019(1).

(5) Supervisory personnel shall be trained to a level commensurate to the position and responsibility they are assigned or assume.

(6) All personnel will be trained and capable of demonstrating competency in utilizing the incident command system (ICS).

(7) All suppression personnel shall review in training, the ten standard fire orders and the eighteen situations that shout "Watch out." See Appendix E.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-07003 ((Automotive fire apparatus equipment.)) Personal protective clothing and equipment for wildland fire fighting. ((1) Vehicles used to transport fire fighter and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, sharp points and



edges shall be covered to prevent injury to fire fighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All personnel shall ride in a seated position if adequate seats are available.

(b) While in transit, all operators and passengers shall be protected from accidental displacement out of or off the apparatus. Means of restraint may include but are not limited to:

(i) For seated passengers, correct use of at least a pelvic seatbelt. Seatbelts shall comply with Part 49 CFR Section 571, Standards 209 and 210, U.S. DOT Regulations;

(ii) For tailboard passengers, containment within a guardrail enclosure or correct use of a safety belt and short lanyard securely connected to the apparatus;

(iii) Safety belt lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 5400 pounds.

(c) Safety belts shall be constructed and maintained in compliance with ANSI A10.14 1975.

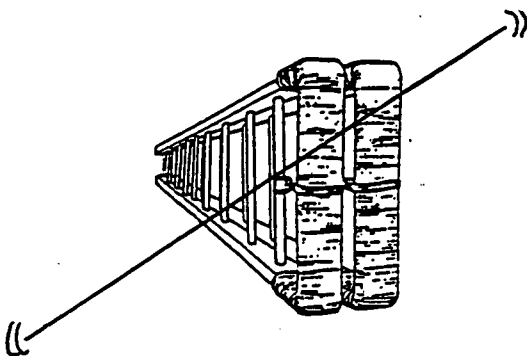
(d) Lanyards shall be a minimum of one half inch nylon or equivalent with a nominal breaking strength of 5400 pounds.

(e) Minimum structural members for tailboard enclosures shall be two inch diameter standard schedule 40 pipe or the equivalent. The enclosure shall be constructed to a minimum toprail height of forty two inches and shall include a midrail and a toeboard at least four inches high. Access door(s) shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure. The door(s) latch shall be equivalent to a one quarter inch by two inch solid steel bar.

(3) Each fire apparatus shall carry a United States Department of Transportation chemical identification book or the equivalent.

(4) Ladders stowed on the sides of apparatus, which protrude into a passage area of a fire station, shall have guards over the butt ends. This guard can be in the form of a short piece of 2 1/2 inch hose.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.



(1) Protective apparel and equipment for wildland fire fighters shall be designed to provide thermal protection for the fire fighters against external heat sources with flame

resistant clothing and equipment without creating high heat stress loads due to the prolonged work periods they experience. Persons performing suppression on a wildland fire shall wear provided protective clothing complying with the performance requirements of NFPA 1977, 1993 edition. The combined protective ensemble includes:

(a) Hardhat/helmet

(b) Upper and lower torso clothing

(c) Boots

(d) Gloves

(e) Hood/neck, ear protection

(f) Goggles

(g) Fire shelters

(2) Any wildland personnel protective clothing purchased after the effective date of this chapter shall comply with this section.

(3) Wildland protective clothing purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until current stocks have been exhausted, whichever comes first.

(4) During "mop up" operations the incident commander may approve the wearing of clothing other than those meeting NFPA 1977, 1993 edition.

(5) Personnel operating Type 1 or Type 2 engines assigned to structural protection will carry structural protective clothing on their assigned apparatus.

(6) Wildland personnel protective clothing shall not be used for interior structural fire fighting.

(7) Persons provided fire shelters shall be trained in their use and shall receive refresher training at least annually.

(8) Personnel wearing full structural fire fighting clothing while engaged in fighting wildland fires shall not expend more than one hour before rotating to rest and rehabilitation. Agencies may rotate crews to avoid the one-hour benchmark when containing and controlling wildland fires.

(9) Fire departments shall establish written procedures for the care, use, maintenance, and retirement criteria for protective equipment in conjunction with the manufacturers' recommendations.

(10) Fire departments shall establish written procedures for the use of protective clothing and protective equipment while performing fire fighting activities.

(11) Clothing, equipment, and procedures not covered by the NFPA, 1977 Standard, 1993 edition, shall be met by the applicable section of this chapter.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-07005 ((Apparatus operational rules.)) Respiratory protection for wildland fire fighters.

((1) Each employer of fully manned stations shall establish a written policy and procedure whereby the apparatus has a scheduled daily maintenance check. Each employer of an unmanned or volunteer station shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to his supervisor.

(3) Fire fighting apparatus shall be brought to a full stop when employees are required to step from the apparatus.

PROPOSED

- ~~(4) Fire fighters shall ride in crew cabs when available.~~
- ~~(5) Fire fighters shall not be in the apparatus hose bed while hose is being run out from the bed.~~
- ~~(6) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.~~
- ~~(7) Whenever an apparatus is parked at a fire scene, wheel blocks shall be utilized.~~
- ~~(8) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.~~
- ~~(9) All operators of emergency vehicles shall be trained in the operation of their assigned apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department.~~
- ~~(10) Stunt driving and horseplay shall not be allowed.~~

Note: Wildland fire fighters may be subjected to numerous respiratory hazards.

(1) When it can be expected that fire fighters may enter a hazardous atmosphere, only members in self contained respiratory equipment shall combat such fires.

(2) When wildland fire fighters are exposed to dust concentrations that are irritating to the members, suitable respiratory protection shall be provided. When fire fighters are provided respiratory protection including particle masks, they shall be trained in the care and use of the respirator to be used.

Note: When the air quality on portions or all of the fire is in question, monitoring for carbon monoxide concentrations should be used to determine if crews may enter these areas.

(3) Employers shall adopt and maintain a written respiratory protection program that addresses inspection, use, maintenance, training, emergency procedures and atmospheric air quality.

Additional Reference: WAC 296-304-04001(3).

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-07007 ((Apparatus operation communications.)) Personal accountability. ((1) When fire fighters are required to ride on the tailboard, or tiller's seat, an electrical signal or voice communication system shall be installed between tailboard or tiller's seat and driver compartment. The following set of signals shall be used for communication between the driver and a tillerman, or between the driver and fire fighters riding the tailboard:

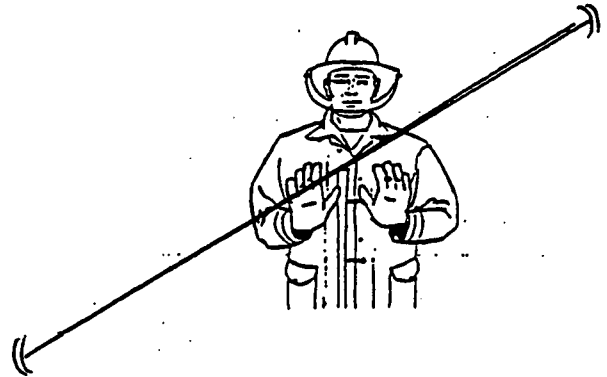
- (a) One long buzz means stop;
- (b) Two buzzes means forward;
- (c) Three buzzes means reverse.

Before any of the above functions are undertaken, with the exception of stopping, the same appropriate signal must be received from the tailboard. Example: If driver is responding to an alarm before starting out, two beeps on the horn will be sounded. Driver will not advance, however, until the same signal is sounded from the tailboard or tillerman.

(2) When using hand signals, these signals are as follows:

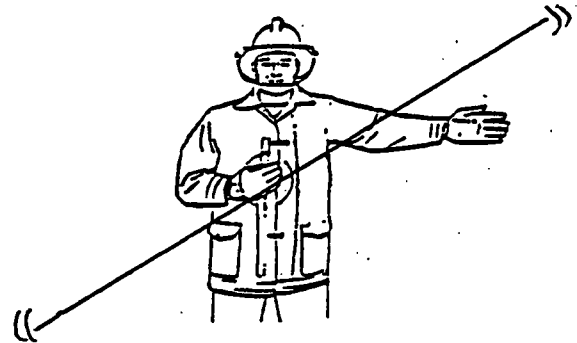
**STOP**

~~Hold hands to the side, shoulder high, exposing palms to driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand, shining at the driver. This will indicate an immediate STOP.~~



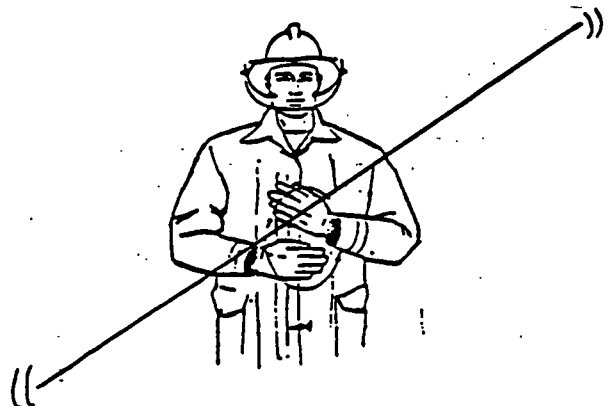
**RIGHT OR LEFT**

~~Point in the desired direction with one hand and motion in a circular "come on" gesture with the other at chest level. At night, direct a flashlight beam at the hand pointing in the desired direction.~~



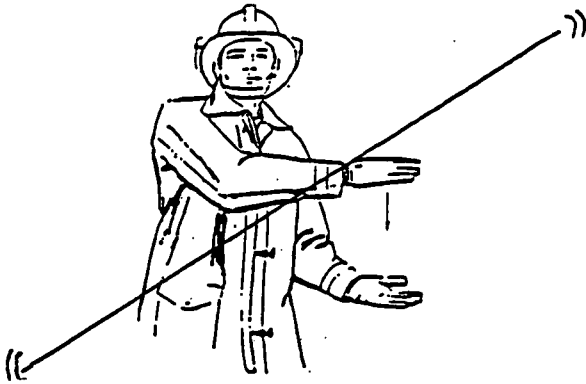
**AHEAD OR BACK UP**

~~Hold hands directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come on" gesture. At night, hold a flashlight in one hand and direct the beam toward the other.~~



**DIMINISHING CLEARANCE**

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers his apparatus toward same. Close hands as the distance narrows to a point where the signalman indicates immediate STOP. Always allow enough for driver's reaction time. At night, indicate in the same manner with a flashlight in the upper hand and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



(1) Wildland fire fighters shall not be required to wear personnel alerting devices except when wearing self contained respiratory equipment.

(2) An officer shall maintain positive communication with any individual during those times that the member is assigned an ancillary fire fighting task (examples would include, but are not limited to, scout, safety officer, or watch person).

(3) Wildland fire fighters shall work in teams of two or more while working on or near the fire line of an active fire unless they are in visual or voice contact with an officer.

(4) On initial attack fires, the incident commander shall:

(a) Maintain the name and location of all personnel on the incident.

(b) On extended attack fires, ensure the maintenance of the name and location of all personnel within their unit, division, or branch.

(c) Transfer/confirm personnel and unit information to the appropriate incident command section (ICS) command staff as soon as possible.

(d) Ensure that personnel and unit information is recorded in the command post as soon as possible.

(5) When a fire "blows up" or makes a run that crosses planned control lines, officers shall conduct an accounting of all personnel assigned to fire suppression and report any missing personnel to the incident commander.

**AMENDATORY SECTION** (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

**WAC 296-305-07009** (~~Maintenance and repair.~~) **Apparatus standards for wildland fire fighting.** ~~((1) If at any time, a fire apparatus is found to be in an unsafe condition, it shall be reported to the supervising officer on duty and, if in his opinion, the apparatus cannot be used in~~

a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.

~~(2) All repairs made to fire department apparatus shall only be made by personnel authorized by the employer.~~

~~(3) Tires on fire service apparatus shall be changed when the tread depth reaches 4/32 of an inch, measured in any two major tread grooves at three locations equally spaced around the circumference of the tire.) This section applies to wildland fire apparatus meeting the NIIMS ICS typing of a Type 3 through Type 7 engine, and intended for use combating fires occurring in natural vegetation or occurring in natural vegetation and threatening improvements. See Appendix E for equipment types.~~

(1) In a wildland fire, an engine may provide the primary protection for a crew in the event of unexpected fire behavior or an action that places the engine crew in a position of being exposed to heat and smoke.

(2) Because of the sheltering offered by an engine, the following minimum standards shall be complied with:

(a) The number of individuals working/assigned as an engine crew shall not exceed the manufacturer's cab capacity.

(b) Any time an engine is moved when not directly attacking a fire, personnel shall ride in the vehicle's enclosed cabin area, in a seat-belted location, or be off the vehicle.

(c) Any time engines are used in a mobile attack configuration, and personnel other than the driver are on the apparatus, personnel shall ride in the manufacturer's enclosed cabin, or use the personnel restraints identified in WAC 296-305-07011.

(d) All personnel working on or around engines in a mobile attack mode or in riding positions shall have visual or voice contact with the driver.

(e) Vehicles operating in smoke or dust shall have their headlights, and if so equipped, a flashing or rotating roof light illuminated.

**NEW SECTION**

**WAC 296-305-07011 Personnel restraints and enclosures for wildland fire fighting.** (1) While in motion, the driver and passengers in the cab shall wear seatbelts.

(2) Seatbelts shall comply with U.S. Department of Transportation, Part 49 CFR, Section 571, Standards 209 and 210.

(3) Passengers on wildland vehicles shall use a safety belt or a short lanyard securely connected to the apparatus.

(a) Safety belts or lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 1500 pounds per person or a 4:1 safety factor.

(b) Safety lanyard lengths shall not allow for the fire fighter to reach the ground.

(4) Safety belts shall be constructed and maintained in compliance with ANSI A10.14-1975.

(5) Lanyards shall be a minimum of one-half inch nylon or equivalent with a nominal breaking strength of 5400 pounds.

(6) Minimum structural components for wildland vehicle enclosures shall be one-inch diameter, capable of supporting a minimum of 1500 pounds per person, a 4:1 safety ratio or the equivalent.

PROPOSED

(7) The enclosure shall be constructed to a minimum top-rail height of forty-two inches and shall include a mid-rail and either a toeboard at least four inches high or a bottom rail a maximum of six inches from the platform.

(8) Access door(s) and latching mechanisms to tail board enclosures shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure.

(9) A strap or butt-bar utilized for the fourth side of the enclosure shall be a minimum of a four-inch nylon strap capable of supporting 1500 pounds dead weight.

**NEW SECTION**

**WAC 296-305-07013 Equipment for wildland fire fighting.**

Note: Equipment is considered in this section as those items not configured as a part or portion of the vehicle body.

(1) All equipment on an apparatus shall be carried in an enclosed compartment or otherwise securely mounted on the apparatus and guarded, so that individuals can not accidentally come in contact with equipment that may injure them.

(2) All hand tools, when not in use, shall have appropriate covers and guards to prevent injury.

(3) Wildland fire fighters whose duties require them to operate a power chain saw shall wear flexible ballistic nylon pads, sewn or otherwise fastened into the trousers, or other equivalent protection that shall protect the vulnerable areas of the legs. Additional trouser, eye, hearing, face and head protection as required by this chapter shall be worn.

(4) Employees shall not use the chainsaw to cut directly overhead, or at a distance that would require the operator to relinquish a safe grip on the saw.

(5) Only personnel trained in firing equipment shall handle and use such equipment, and observe the manufacturers' recommendations.

**NEW SECTION**

**WAC 296-305-07015 Aircraft operations for fighting wildland fires.** (1) Whenever fixed wing and rotary wing aircraft are being utilized on an incident, personnel trained in air operations management shall be assigned by the incident commander/operations section chief.

(2) Prior to the initiation of air operations, all personnel operating in close proximity to an air drop shall be notified of such activity.

(3) Personnel shall not intentionally operate in an area where it can reasonably be expected that they may be hit with retardants or suppressants from fixed wing or rotary aircraft.

(4) Radio communications shall be maintained between an aircraft/air attack officer and the appropriate ground officer.

(5) Personnel assigned to ride in rotary wing aircraft shall be briefed in the correct approach, riding and off-loading procedures for the particular type of aircraft.

**NEW SECTION**

**WAC 296-305-07017 First-aid for wildland fire fighters.** (1) At all wildland fires, members shall be provided with a minimum of one quart per two-hour time period of electrolyte drinks or potable water.

(2) Officers at wildland fires shall be trained in the symptoms of heat-related disorders and shall observe their crews for such behavior. Appropriate action shall be taken in the event a crew member displays such symptoms.

**NEW SECTION**

**WAC 296-305-07019 Training for wildland fire fighting.** (1) All fire fighters whose primary responsibility is to extinguish wildland fires shall be trained to a National Wildfire Coordinating Group (NWCG), wildland fire fighter, level II, or equivalent.

(a) "Equivalent" training shall be determined by the employer.

(b) Nothing in this section shall preclude the use of local residents, affected parties or contracted fire fighting resources to suppress wildland fires, if they are under the direct supervision of a qualified fire line officer.

Note: The NWCG performance tasks are listed in Appendix E.

(2) All suppression personnel shall annually review the ten standard operating orders and 18 "Watch Out" situations. See Appendix E.

**AMENDATORY SECTION** (Amending Order 83-34, filed 11/30/83)

~~WAC 296-305-075 ((Fire service equipment.)) ((+)) Before using portable equipment, the user shall inspect it to determine to his satisfaction that it is operable.~~

~~(2) When equipment develops a defect which would result in a hazard to the fire fighter, it shall immediately cease to be used.~~

~~(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of 1 inch nylon, or equivalent belting, with a 4 inch overlap and sewn with polyester thread and shall measure at least 102 inches outside circumference.~~

~~(4) The load capacity of each portable jack shall be stenciled on each portable jack and shall not be exceeded.~~

~~(5) The instruction plate on portable jacks shall be maintained in a legible condition.~~

~~(6) When not in use the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.~~

~~(7) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.~~

~~(8) The guards on smoke ejectors as supplied by the manufacturer shall not be removed and the operator of the ejector shall wear gloves.~~

~~(9) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with Compressed Gas Association Pamphlet G-1 1966.~~

~~(10) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.~~

PROPOSED

(11) In using formed charge, explosive devices for foreseeable entry or ventilation, prescribed safety measures as stipulated by the manufacturer shall be followed.

(12) Each employer using formed charge, explosive devices shall establish and use a procedure by which employees and the general public are notified and protected when explosive devices are to be fired.

(13) Formed charge, explosive devices shall not be used in an explosive or flammable atmosphere.

(14) A storage container shall be furnished for the formed charge device and the container labeled "EXPLOSIVE."

The shipping container shall suffice as a storage container when labeled "EXPLOSIVE."

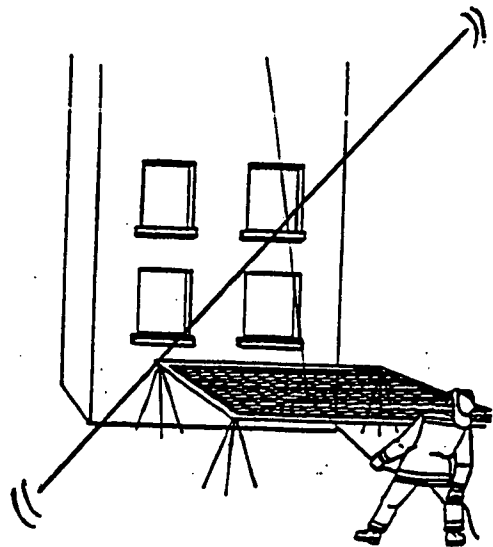
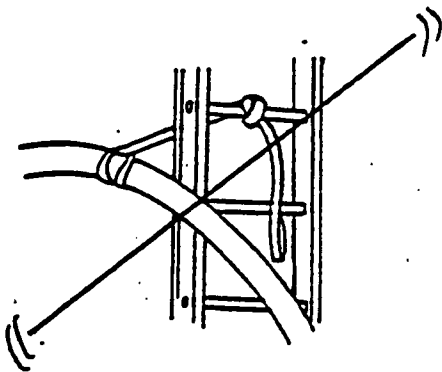
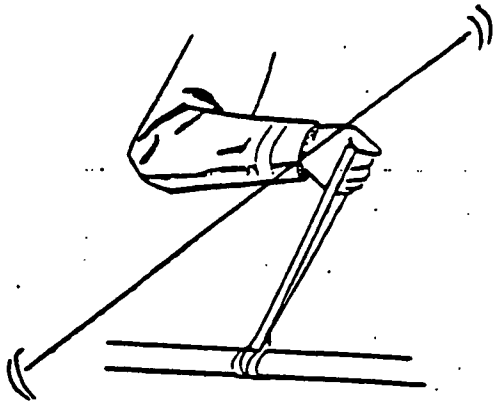
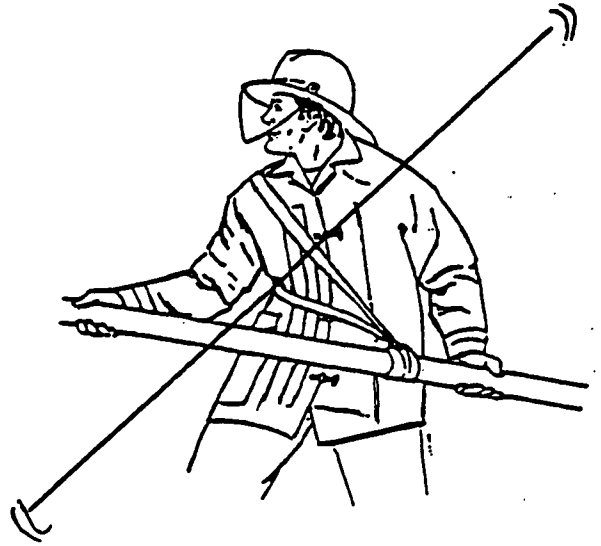
(15) Powder activated life line guns and accessories shall be stored in a box or container equipped with a lid or cover. When not in use the box shall be kept closed. A loaded life line gun shall not be placed in the storage box.

(16) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life line gun storage box.

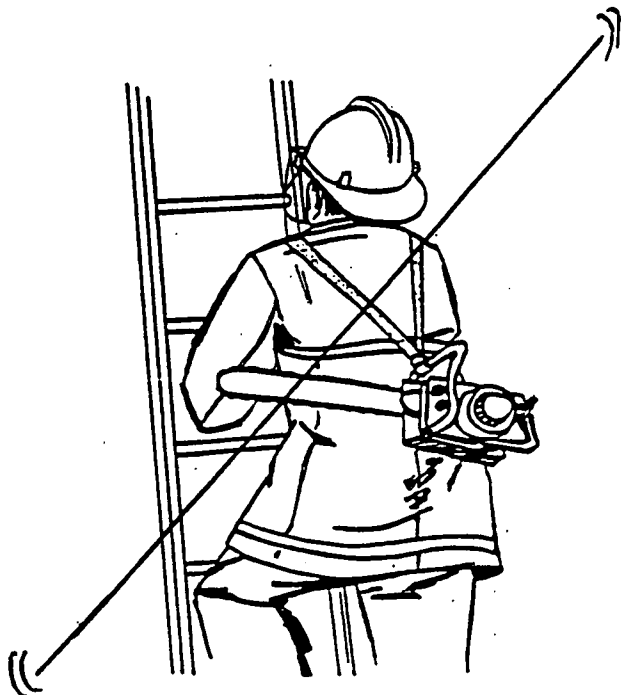
(17) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(18) Portable abrasive saws shall have the upper half of the abrasive wheel guarded.

(19) Abrasive blades shall be protected from contact with oil, water, and liquids when stored.



PROPOSED



(e) The mesh size of nets shall not exceed six inches by six inches.

(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.

(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(3) Life belts shall meet the strength requirements of ANSI A10.14 Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(4) Rescue ropes shall be used for rescue purposes only.

(5) Rescue ropes shall meet the following requirements:

(a) Shall be constructed of rot proof fiber with a melting point of not less than 400 degrees F;

(b) Shall be of abrasion resistant construction;

(c) Shall have a minimum breaking strength of not less than 9,000 pounds; and

(d) Shall have a breaking elongation of not less than twenty percent.

(6) Rescue ropes shall be padded when deployed over edges or rough surfaces.

(7) Rescue ropes shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(8) The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.)) Reserved.

Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-080 ((Testing fire service equipment.))

((1) When testing fire hose, a restricted orifice disc, having not more than a 25% opening, shall be installed on the pumper discharge port, or in the alternative the pumper discharge valve may be opened not more than 25%, to insure a minimum volume of water in case of a bursting hose.

(2) Safety nets shall be tested annually by dropping a weight of not less than 160 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of 2 1/2 inch hose, each 100 feet long or any other object having similar weight and dimension.

(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum shall withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(c) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three fire fighters on the net.

(d) Safety nets shall extend 8 feet beyond the edge of the work surface.

NEW SECTION

WAC 296-305-08000 Appendices. These appendices are nonmandatory and are included to reference and information purposes only.

Appendix A—Sample OSHA Reporting Forms.

Bureau of Labor Statistics  
Supplementary Record of  
Occupational Injuries and Illnesses

U.S. Department of Labor



This form is required by Public Law 91-502 and must be kept in the establishment for 5 years. Case or File No. Form Approved O.M.B. No. 1220-0029  
Failure to maintain can result in the issuance of citations and assessment of penalties.

Employer  
1. Name  
2. Mailing address (No. and street, city or town, State, and zip code)  
3. Location, if different from mailing address  
See OMB Disclosure Statement on reverse.

Injured or ill Employee  
4. Name (First, middle, and last) Social Security No.  
5. Home address (No. and street, city or town, State, and zip code)  
6. Age 7. Sex: (Check one) Male  Female   
8. Occupation (Enter regular job title, not the specific activity he was performing at time of injury.)  
9. Department (Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)

The Nature or Exposure to Occupational Injury  
10. Place of accident or exposure (No. and street, city or town, State, and zip code)  
11. Was place of accident or exposure on employer's premises? Yes  No   
12. What was the employee doing when injured? (Be specific. If he was using tools or equipment or handling material, name tools and the work he was doing with them.)  
13. How did the accident occur? (Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheets for additional space.)

Occupational Injury or Occupational Illness  
14. Describe the injury or illness in detail and indicate the part of body affected. (E.g., abrasion of right index finger at second joint; fracture of ribs; lung contusion; damage to left hand, etc.)  
15. Name the object or substance which directly injured the employee (For example, the machine or thing he struck against, or which struck him; the vapor or fumes he inhaled or swallowed; the chemical or radiation which irradiated his skin; or in case of strain, sprain, etc., the thing he was lifting, pulling, etc.)  
16. Date of injury or in the diagnosis of occupational illness 17. Did employee die? (Check one) Yes  No

Other  
18. Name and address of physician  
19. If hospitalized, name and address of hospital

Date of report Prepared by Official position

OSHA No. 101 (Rev. 1961)

PROPOSED

Bureau of Labor Statistics  
Log and Summary of Occupational  
Injuries and Illnesses

**NOTE:** This form is required by Public Law 91-626 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. (See posting requirements on the other side of form.)

**RECORDABLE CASES:** You are required to record information about every occupational death; every nonfatal occupational disease; and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). (See definitions on the other side of form.)

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness
Enter a nonduplicating number which will facilitate correspondence with supplementary records.	Enter Mo./Day.	Enter first name or initial, complete initial, last name.	Enter regular job title, not factory employee used performing when injured or ill (case of illness). In the absence of a formal title, enter a brief description of the employee's duties.	Enter department in which the employee is regularly employed or a description of named workplace to which employee is assigned, even though temporarily working in another department at the time of injury or illness.	Enter a brief description of the injury or illness and indicate the part or parts of body affected.  Typical entries for the column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocution—body.
LAJ	IBJ	ICJ	IDJ	IEJ	IFJ
					<b>TOTALS</b> (Substitute an appropriate value of hours)

OSHA No. 200

PROPOSED



U.S. Department of Labor



For Calendar Year 19\_\_\_\_ Page \_\_\_\_ of \_\_\_\_

Employer Name					Form Approved							
Establishment Name					O.M.B. No. 1220-0023							
Establishment Address					See OMB Disclosure Statement on reverse.							
Extent and Outcome of INJURY					Type, Extent of, and Outcome of ILLNESS							
Position	Injured Worker				Type of Illness	Position	Injured Worker					
Injury Result	Injuries With Lost Workdays				CHECK Only One Column for Each Illness (See other side of form for nonoccupational or permanent illnesses.)	Illness Result	Illnesses With Lost Workdays					
	Enter DATE of death.	Enter a CHECK if injury involves restriction from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.			Enter number of DAYS of restricted work activity.	Enter a CHECK if no injury was made in columns 1 or 2 but the injury is recordable as defined above.	Enter DATE of death.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
					Occupational skin disease or disorders							
					Dust diseases of the lungs							
					Respiratory conditions due to toxic agents							
					Poisoning (systemic effects of toxic materials)							
					Disorders due to physical agents							
					Disorders associated with repeated trauma							
					All other occupational illness							

**INJURIES**

**ILLNESSES**

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

PROPOSED

PROPOSED

## Part 1: Summary of 1994 Occupational Injuries and Illnesses

All establishments must complete this part of the survey, even if there were no occupational injuries and illnesses during 1994. This form tells us about the number of employees in your establishment and the number of hours they worked. It also gives us a summary of any occupational injuries and illnesses that did occur during 1994.

To answer the questions on this form, you'll need

- ▶ information about employment and hours worked from your payroll, and
- ▶ your completed copy of the 1994 *Log and Summary of Occupational Injuries and Illnesses* (OSHA No. 200).

### Tell us about your establishment's employees and the hours they worked

Be sure the information you supply refers only to the establishment(s) noted on the cover under *Reporting Site*.

#### 1. What is the average number of employees who worked for your establishment during 1994?

Employment average

If this number isn't available, you can estimate it this way:

- ▶ Add together the number of employees your establishment paid in every pay period during 1994. Include all employees: full-time, part-time, temporary, seasonal, salaried, and hourly.
- ▶ Divide that answer by the number of pay periods your establishment had in 1994. Be sure to include any pay periods when you had no employees.
- ▶ Round the answer to the next highest whole number. Write the rounded number in the blank marked *Employment average*.

**Example**  
Acme Construction pays its employees 26 times each year. During 1994,

in this pay period	Acme paid this many employees
1 .....	10
2 .....	0
3 .....	15
4 .....	30
5 .....	40
↓ .....	↓
24 .....	20
25 .....	15
26 .....	10
	830 (sum)

Because Acme has 26 pay periods, it would divide its sum by 26.  
830 divided by 26 = 31.92  
Acme would round 31.92 to 32 and write that number in the blank marked *Employment average*.

#### 2. How many hours did your employees (salaried as well as hourly employees) actually work during 1994?

Total hours worked

Do not include vacation, sick leave, holidays, or any other non-work time, even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, please estimate the hours that the employees actually worked.

If this number isn't available, you can use this worksheet to estimate it.

##### Optional Worksheet

- \_\_\_\_\_ Find the number of full-time employees in your establishment for 1994.
- x \_\_\_\_\_ Multiply by the number of work hours for a full-time employee in a year.
- \_\_\_\_\_ This is the number of full-time hours worked.
- + \_\_\_\_\_ Add the number of any overtime hours as well as the hours worked by other employees (part-time, temporary, seasonal).
- \_\_\_\_\_ Round the answer to the next highest whole number. Write the rounded number in the blank marked *Total hours worked*.

PROPOSED

3. Put an X in the box next to all the conditions that might have affected your answers to #1 and #2.

- Nothing unusual happened
- Strike or lockout
- Shutdown or layoff
- Seasonal work
- Natural disaster or adverse weather conditions
- Shorter work schedules or fewer pay periods than usual
- Longer work schedules or more pay periods than usual
- Other reason: \_\_\_\_\_

4. Did you have ANY occupational injuries or illnesses during 1994?

- Yes. Go to the next section. *Tell us about the injuries and illnesses during 1994.*
- No. Go to *Sign This Form* on the back cover.

## Tell us about the injuries and illnesses during 1994

If you had occupational injuries or illnesses during 1994, follow these steps.

- Go to your completed 1994 *Log and Summary of Occupational Injuries and Illnesses* (OSHA No. 200) form.
- Look at the total line on the last page.
- Copy the 1994 totals from your OSHA No. 200 form into the columns below. If more than one establishment is noted on the front cover under *Reporting Site*, add together the total lines from all your OSHA No. 200 forms to get the 1994 totals for all establishments. Then copy those totals into the columns below.

### Total Injuries

Copy these totals from columns (1) - (6):

Deaths as a result of injury (column 1)	Injuries with days away from work, or restricted workdays or both (column 2)	Injuries with days away from work (column 3)	Total days away from work (column 4)	Total days of restricted work activity (column 5)	Injuries without lost workdays (column 6)
_____	_____	_____	_____	_____	_____

### Total Types of Illnesses

Copy these totals from columns (7a) - (7g):

Skin diseases or disorders (column 7a)	Dust diseases of the lungs (column 7b)	Respiratory conditions due to toxic agents (column 7c)	Poisoning (column 7d)	Disorders due to physical agents (column 7e)	Disorders associated with repeated trauma (column 7f)	Other occupational illnesses (column 7g)
_____	_____	_____	_____	_____	_____	_____

### Total Illnesses

Copy these totals from columns (8) - (13):

Deaths as a result of illness (column 8)	Illnesses with days away from work, or restricted workdays or both (column 9)	Illnesses with days away from work (column 10)	Total days away from work (column 11)	Total days of restricted work activity (column 12)	Illnesses without lost workdays (column 13)
_____	_____	_____	_____	_____	_____

## What's next

Look at the totals you copied into columns (3) and (10) above (look for the bold lines).

- ▶ If you had NO cases in both columns (3) and (10), you are finished with the survey. Go to *Sign This Form* on the back cover.
- ▶ If you HAD cases in either column (3) or column (10), go to **Part 2: Reporting Cases with Days Away from Work.**

PROPOSED

Case with Days Away from Work

Tell us about a 1994 occupational injury or illness only if it resulted in days away from work. To find out which cases you should report, read the instructions at the beginning of Part 2, Reporting Cases with Days Away from Work. We will keep all information that you give us confidential.

Tell us about the case Do you report completed OSHA No. 200 form. Copy the case information from that form into the columns below.

Table with 4 columns: Date of injury or illness, Employer's name, address, and phone number, Injury, Days away from work, Days of restricted work, and Days of job transfer.

If as a result of the injury or illness, the employee did NOT return to regular work in 1994, tell us why. Tell reporting organization name date

Tell us about the employee

- 1. Employer's approximate length of service at the establishment when the incident occurred (approximate) Less than 1 month, 1 to 3 months, 3 to 12 months, 12 to 24 months, More than 24 months

- 2. Employer's race or ethnic background (approximate) White, non-Hispanic origin, Black, non-Hispanic origin, Hispanic, Asian or Pacific Islander, American Indian, Alaska, or Native Hawaiian

3. On the Summary of Standards for Worker Compensation at the back of this booklet and read the worker's compensation schedule for your state. Check the case under your state's schedule for filing for workers' compensation? Yes, We can get the rest of the information on this case from the employer or we can try to get the employer's Social Security number for you. Write the employer's Social Security number on the back of this booklet. Copy it on the back of this booklet.

4. Yes, We can get the rest of the information on this case from the employer or we can try to get the employer's Social Security number for you. Write the employer's Social Security number on the back of this booklet. Copy it on the back of this booklet.

Form with fields for Employer's name, MHA, Female, and Employee's occupation.

Case with Days Away from Work

Tell us about a 1994 occupational injury or illness only if it resulted in days away from work. To find out which cases you should report, read the instructions at the beginning of Part 2, Reporting Cases with Days Away from Work. We will keep all information that you give us confidential.

Tell us about the case Do you report completed OSHA No. 200 form. Copy the case information from that form into the columns below.

Table with 4 columns: Date of injury or illness, Employer's name, address, and phone number, Injury, Days away from work, Days of restricted work, and Days of job transfer.

If as a result of the injury or illness, the employee did NOT return to regular work in 1994, tell us why. Tell reporting organization name date

Tell us about the employee

- 1. Employer's approximate length of service at the establishment when the incident occurred (approximate) Less than 1 month, 1 to 3 months, 3 to 12 months, 12 to 24 months, More than 24 months

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4. Yes, We can get the rest of the information on this case from the employer or we can try to get the employer's Social Security number for you. Write the employer's Social Security number on the back of this booklet. Copy it on the back of this booklet.

Form with fields for Employer's name, MHA, Female, and Employee's occupation.

PROPOSED

**EXPOSURE REPORT FORM  
BLOOD OR BODY FLUID**

(To be completed by emergency worker at the time of incident)

**Exposed Employee Information:**  
 Name: \_\_\_\_\_ Rank: \_\_\_\_\_  
 Soc. Sec. #: \_\_\_\_\_ Telephone (H) \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Emergency Worker Category:  
 \_\_\_\_\_ Ambulance Attendant \_\_\_\_\_ Law Enforcement \_\_\_\_\_ Firefighter

**Incident Information:**  
 Run #: \_\_\_\_\_ Shift: \_\_\_\_\_ Company: \_\_\_\_\_ District: \_\_\_\_\_  
 Incident Location: \_\_\_\_\_  
 Type of Incident (e.g., auto accident, Trauma, etc.) \_\_\_\_\_

**Exposure Description:**  
 Date of Exposure: \_\_\_\_\_ Time of Exposure: \_\_\_\_\_

- What body fluid(s) were you in contact with?  
 Blood: \_\_\_\_\_ Feces: \_\_\_\_\_ Saliva: \_\_\_\_\_ Sputum: \_\_\_\_\_  
 Sweat: \_\_\_\_\_ Tears: \_\_\_\_\_ Urine: \_\_\_\_\_ Vomitus: \_\_\_\_\_  
 Other (describe) \_\_\_\_\_
- What was the method of contact?  
 \_\_\_\_\_ Needlestick with contaminated needle  
 \_\_\_\_\_ Blood or body fluids into natural body openings (e.g., nose, mouth, eye)  
 \_\_\_\_\_ Blood or body fluids into cut, wound, sores, or rashes less than 24 hours old  
 Please specify: \_\_\_\_\_  
 \_\_\_\_\_ Other (describe specifically) \_\_\_\_\_
- How did the exposure occur? Be specific.  
 \_\_\_\_\_  
 \_\_\_\_\_
- What action was taken in response to the exposure to remove the contamination (e.g., handwashing)?  
 \_\_\_\_\_
- What personal protective equipment was being used at the time of exposure?  
 \_\_\_\_\_  
 \_\_\_\_\_

PROPOSED

**EXPOSURE REPORT FORM  
BLOOD OR BODY FLUID (Continued)**

**Exposure Description (Continued)**

6. Please describe any other information related to the incident (use a separate piece of paper (if needed):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Source of Exposure:**

Name of Patient (source of exposure): \_\_\_\_\_ Sex: \_\_\_\_\_

Receiving Health Care Facility: \_\_\_\_\_

Transported by: \_\_\_\_\_

Patient's Physician: \_\_\_\_\_

**Medical Information:**

1. Did you seek medical attention? \_\_\_\_\_ Date: \_\_\_\_\_  
If yes, where? \_\_\_\_\_

2. Did you contact the infection control officer? \_\_\_\_\_  
If yes, give date and time \_\_\_\_\_  
Name of infection control officer: \_\_\_\_\_

\_\_\_\_\_  
Employee's Signature Date

\_\_\_\_\_  
Infection Control Officer's Signature Date

**To Be Completed by the Infection Control Officer:**

Communicable disease follow-up needed? Yes\* \_\_\_\_\_ No \_\_\_\_\_

\*If yes, infection control officer must complete the "Communicable Disease Exposure Follow-up Form." This procedure applies either if this is a known disease exposure or if such information is determined at a future date.

<b>INSTRUCTIONS FOR USING THE EXPOSURE REPORT FORM</b>
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**For the Emergency Worker**

**When to Complete This Form:** This form should be completed when an exposure occurs that may pose a health risk. This form should be completed so that the department infection control office and physician can advise you regarding appropriate medical actions.

**Significant Exposure Defined:** A situation in which the body fluids (such as blood, saliva, urine, feces, etc.) of a patient are suspected of having entered your body through either a body opening (such as your nose, mouth, or eye), or a break in your skin (such as cut, rash, or abrasion); a needlestick with a contaminated or used needle; intimate respiratory contact (such as CPR without a barrier); or any other situation in which a patient's body fluids may have entered your body.

**What to Do With the Completed Form:** Make one copy. Promptly give the original to your infection control officer and keep the copy for yourself.

**For Physicians**

**Patient's Physician:** This form indicates that an emergency worker (a member of an ambulance service, fire department, or law enforcement agency) was exposed to body fluids of the patient identified on the second page of this form. Should the exposure as described on this form pose a health risk to the emergency worker, the emergency worker's physician as identified on this form may contact you for information so the appropriate medical interventions may be initiated. If information pertinent to the exposure incident develops during the course of treatment (during hospitalization or post-treatment visits), please notify the emergency worker's physician so treatment for the emergency worker can be reevaluated. For further information, contact your local or state health department.

**Emergency Worker's Physician:** A copy of this report is being given to you as the primary physician of the emergency worker named on this form. This report is to notify you that your patient has sustained a significant exposure to blood or body fluids during his/her duties as an emergency worker. It does not necessarily mean that he/she was exposed to a contagious or communicable disease; however, should the exposure pose a health risk to your patient, please contact the source patient's physician as identified on this form so the appropriate medical interventions may be initiated. For further information, contact your local or state health department. A copy of this report has also been provided to the transported patient's physician through the health care facility to which the patient was taken.

PROPOSED

**COMMUNICABLE DISEASE EXPOSURE FOLLOW-UP FORM**

<b>Employee Name:</b>	<b>Date of Exposure:</b>
<b>Run Number:</b>	<b>Time of Exposure:</b>
<b>Exposure Source (patient's name):</b>	
<b>Patient's Communicable Disease Diagnosis:</b>	
<b>How was this diagnosis made known? Give source name and telephone number:</b>	
<b>Date Diagnosis was made known to you:</b>	
<b>Has employee ever received appropriate vaccinations?</b>	
Yes	No
<b>If yes, which vaccination and when?</b>	

.....

<b>Date</b>	<b>Summary of Person Contacted, Company, Discussion, etc.</b>



PROPOSED

**INFORMED CONSENT FORM  
FOR HEPATITIS B VACCINE**

Name (please print): \_\_\_\_\_  
Employer Name: \_\_\_\_\_

I have read the vaccine manufacturer's printed information and have attended a departmental informational session on (date) \_\_\_\_\_ regarding hepatitis B and the hepatitis B vaccine.

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself.

I have had the opportunity to ask any questions and consult my personal physician. I understand that there is no guarantee that I will become immune to hepatitis B or that I will not experience any adverse side effects from the vaccine. I also understand that I must have all three (3) doses of the vaccine to derive the benefit of the vaccine and that it is my responsibility to keep my scheduled appointments to receive all three (3) of them.

\_\_\_\_\_  
Employee's Signature Date

\_\_\_\_\_  
Witness of Employee's Signature Date

.....

	Date Vaccination Scheduled	Date Vaccination Received	Employee's Initials After Receiving Vaccination
1st dose	_____	_____	_____
2nd dose	_____	_____	_____
3rd dose	_____	_____	_____

\_\_\_\_\_  
Signature of Information Session Conductor Date

\_\_\_\_\_  
Signature of Department Infection Control Officer Date

PROPOSED

<p><b>INFORMED REFUSAL FORM FOR HEPATITIS B VACCINE</b></p>
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Name (please print): \_\_\_\_\_

Employer Name: \_\_\_\_\_

I have read the vaccine manufacturer's printed information and have attended a departmental informational session on (date) \_\_\_\_\_ regarding hepatitis B and the hepatitis B vaccine.

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness of Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Information Session Counselor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Department Infection Control Officer

\_\_\_\_\_  
Date

**EMPLOYEE VACCINE/IMMUNIZATION HISTORY**

Employee Name: \_\_\_\_\_ Hire Date: \_\_\_\_\_

1. **HBV vaccination series completion date:** \_\_\_\_\_  
**Comments:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
**Results of subsequent antibody testing:** \_\_\_\_\_

2. **Tuberculosis skin test:** Pos \_\_\_\_\_ Neg \_\_\_\_\_ Date \_\_\_\_\_  
**Comments:** \_\_\_\_\_  
 \_\_\_\_\_

3. **Measles:**  
**Did you have measles as a child?** Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, date: \_\_\_\_\_  
**If no, were you vaccinated before 1957?** Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, date: \_\_\_\_\_  
**Have you had a second vaccination any time after 1956?** Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, date: \_\_\_\_\_

4. **Mumps:** Vaccination date: \_\_\_\_\_ Contraction date: \_\_\_\_\_

5. **Rubella:** Vaccination date: \_\_\_\_\_ Contraction date: \_\_\_\_\_

6. **Polio:** Vaccination date: \_\_\_\_\_

7. **Chicken Pox:** Contraction date: \_\_\_\_\_

8. **Tetanus/Diphtheria:** Last known vaccination: \_\_\_\_\_

PROPOSED

Appendix C — Recommended cleaning procedures for protective turnout clothing and station uniforms. (1) Protective clothing should be washed separately from other garments.

(2) Do not use chlorine bleach (sodium hypochlorite) as this will adversely affect the tear strength of your protective clothing and lessen its life. Oxygenated bleaches such as Liquid Clorox II, and Vivid may be used.

(3) Protective clothing may be spot treated or pretreated for hard to remove stains with products such as liquid Spray and Wash, liquid Tide, liquid dishwashing detergent or liquid Shout.

Note: The use of brand names is intended only to indicate a type of cleaning agent. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is

inferior. Solvents should not be used as they lessen the life of the garment, reduce visibility on the trim, and degrade leather.

(4) When pretreating or spot treating a garment, apply the detergent onto the soiled area. Gently rub the fabric together until a light foam appears on the surface. Use a soft bristle brush (toothbrush type) and scrub the area for about one and one-half minutes. Reapply liquid detergent onto the soiled area and place the garment into the washing machine.

(5) When cleaning turnout clothing the garment should be turned inside out, the hooks and dees fastened, the liner removed, and the garment placed in a laundry bag. These instructions can be used for cleaning any wash loads in a large capacity (sixteen gallon) top loading or front loading machine. Load the machine with any one of the following combinations - do not overload:

- (a) One protective coat and one pair of trousers.
- (b) Two protective coats.
- (c) Two protective pair of trousers.

Note: Heavily soiled garments should be treated as outlined in (4).

(6) While the washing machine is filling with hot water (temperature between 120 degrees F and 130 degrees F), add one-half cup (four ounces) of liquid oxygenated bleach and one cup (eight ounces) of liquid detergent.

- (a) Fill washing machine to highest water level,
- (b) Add garments to be washed,
- (c) Set washing machine for normal cycle, cotton white, or similar setting.

(d) Machines should be programmed for a double rinse. If the machine will not automatically double rinse, a complete second cycle can be run without adding detergent or oxygenated bleach. Double rinse helps remove any residual dirt and ensures detergent removal.

(e) Remove garments from washing machine when done and dry by hanging in a shaded area that receives good cross ventilation, or hang on a line and use a fan to circulate air. A water extractor may be utilized.

(f) After the garments have been removed, run the laundry machine empty or with a dummy (rag) load with detergent at least once; but preferably several times to purge the machine of any residue.

(7) Inspect and examine the trim as to the effectiveness of the trim performance under daytime and nighttime conditions. It is important that a high visibility be maintained at all possible orientations to the light source.

(8) The above procedures can be used for any article of clothing issued that is not contaminated with bloodborne pathogens or any other infectious disease. For clothing exposed to hazardous materials, consult the manufacturer or the appropriate decontamination document.

(9) Procedure for clothing (except wool clothing) that has been exposed to bloodborne pathogens or infectious diseases.

(a) Disposable gloves should be used when handling contaminated clothing.

(b) Each station should have an area designated for the cleaning of equipment. The area designated should not be near kitchen, living, sleeping, or personal hygiene areas.

(c) Contaminated clothing should be handled as little as possible with a minimum of agitation. Contaminated clothing should be cleaned as soon as possible. When the on-coming shift has to clean contaminated clothing for the off-going shift, all contaminated clothing should be stored in red biohazard bags, properly sealed to prevent the spread of potential contamination.

(d) To clean clothing that has been contaminated, a germicidal detergent should be used. Such germicidal should be EPA approved and effective as staphylocidal, pseudomonacidial, virucidal, and fungicidal detergent.

(e) The germicidal detergent is intended to be a complete disinfecting and cleaning agent when mixed according to the manufacturer's directions. Do not add any chemical or detergent to the germicidal solution. After the clothing has been disinfected the clothing should be washed as outlined under normal use.

(f) Wool uniforms should be spot cleaned, placed in the red biohazard bags and sent to an industrial laundry for cleaning.

(10) Helmets, gloves, hoods, and boots should be cleaned as follows:

(a) Preclean using a germicidal solution and scrub all contaminated areas with a soft bristled brush. Rinse with clean water. Dispose of the precleaning solution by pouring it down the drain in the cleaning area.

(b) Using a fresh germicidal solution, repeat the above procedure allowing the areas to remain wet for a minimum of fifteen minutes. Double rinse with clean water and air dry. Dispose of the solution by pouring it down the drain in the cleaning area.

(c) For gloves, use a third fresh water rinse, squeezing and rinsing several times. Dispose of the solution by pouring it down the drain in the cleaning area.

(11) Front loading industrial laundry machines are designed for the type of cleaning required for protective clothing. Machines are available from Milnor, Model 30015C6M-AAC, for washing; or a Huabsch Originator, Model 3705H, for a dryer.

Note: The use of brand names is intended only to indicate a type of cleaning equipment. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior.

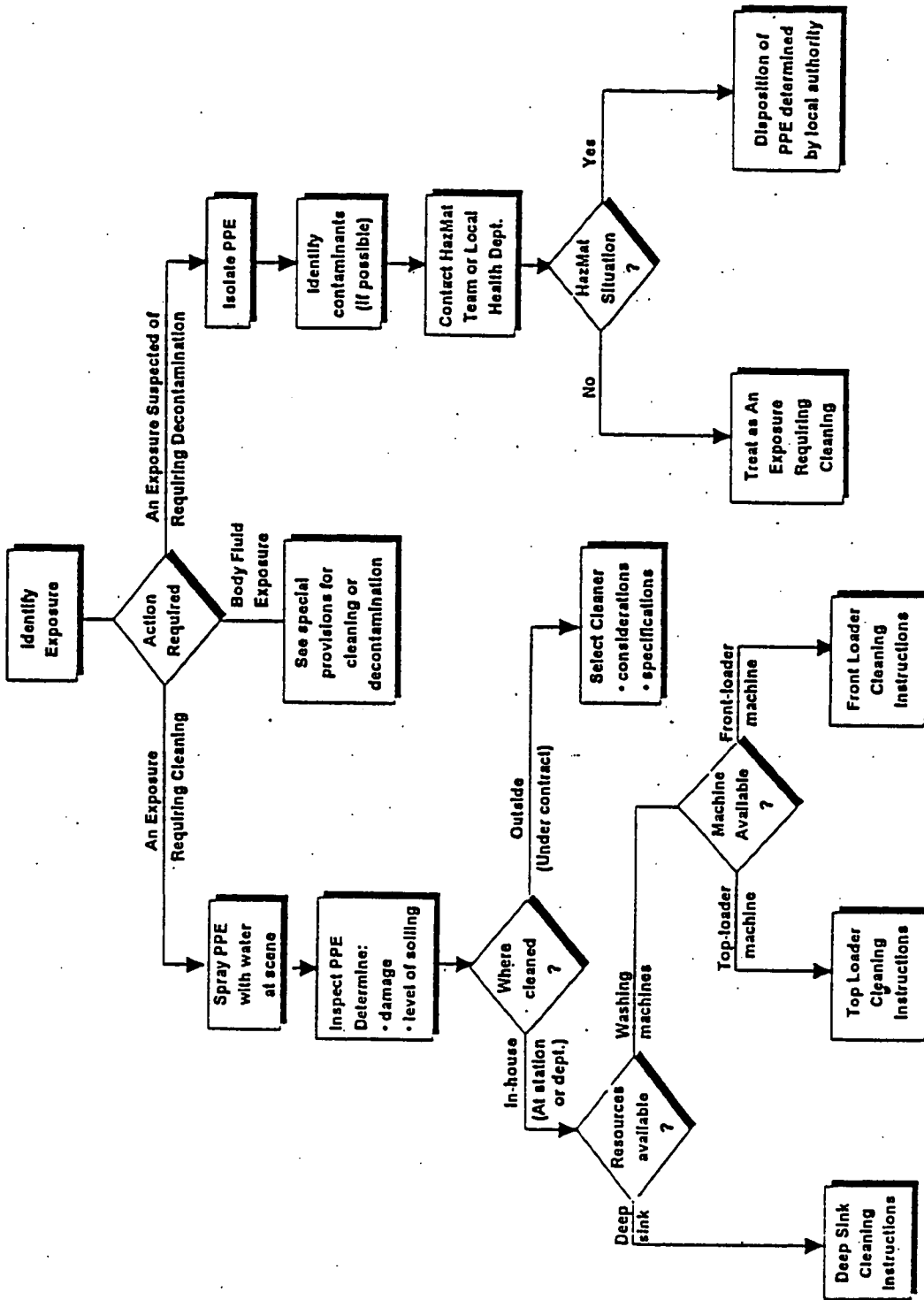


Figure 1. Decision Process for Cleaning or Decontaminating Fire Service PPE

Appendix D — Life Safety Ropes. (1) Life safety rope may be significantly weakened by abrasion, misuse, contamination, wear, and stresses approaching its breaking strength, particularly impact loading. Since there are no approved methods to service test a rope without compromising its strength, rope rescue and training operations should be carefully observed and monitored for conditions that could

cause immediate failure or result in undetectable damage to the rope.

(2) If a rope has been used in a situation that could not be supervised or where potential damage may have occurred, it must be removed from service and destroyed.

(3) It is important that ropes be inspected for signs of wear by qualified individuals after each use. If indication of

PROPOSED

wear or damage are noted, or if the rope has been stressed in excess of the manufacturer's recommendation or impact loaded, it must be destroyed.

(4) The destruction of the rope means that it must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This alteration could include disposing of the rope, or removal of identifying labels and attachments, and cutting the rope into short lengths that could be used for utility purposes.

(5) The assignment of "disposable" life safety ropes to members or to vehicles has proved to be an effective system to manage ropes that are provided for emergency use and are used infrequently. Special rescue teams, which train frequently and use large quantities of rope, should include members who are qualified to manage and evaluate the condition of their ropes and determine the limitations upon their reuse.

Appendix E — Decontamination. (1) A decontamination area should be established whenever civilians or fire department personnel have had known or suspected exposure to toxic chemicals.

(2) Such decontamination areas should be established before any personnel are allowed to enter the "Hot" zone.

(3) The decontamination area should be set up using the following guidelines:

(a) The decontamination area should be located uphill, upwind and at a right angle to the "Hot" zone.

(b) The decontamination area entry/exit point and boundaries should be clearly marked using flagging tape, ropes, cones, etc.

(3) Visqueene should be spread on the ground in the decontamination area to control runoff.

(4) The decontamination process is divided into stations. In most cases it will not be necessary to utilize all the stations. The decision to use all or part of the stations should be based on the following factors:

(a) The hazards associated with the product involved.

(b) The estimated levels of contamination.

(c) The type of protective equipment worn by contaminated responders.

(d) Recommendations from outside sources such as, but not limited to CHEMTREC, the agency for toxic substance and disease registry, poison control centers or the manufacturer of the product.

(5) The following is a list of all the stations in a nine-step decontamination area set up for a worst case scenario involving a hazardous materials response team member whose chemical suit has been breached:

(a) Station #1 - Segregated equipment drop: Contaminated equipment that will be used again in the "Hot" zone, disposed of, or decontaminated at a later time or place, will be deposited here.

(b) Station #2 - Wash/rinse: Entry personnel will be washed with appropriate decontamination solution and rinsed with water by attendant(s) to remove gross contamination. This station may consist of multiple wash/rinse steps depending on the severity of the hazards involved.

(c) Station #3 - Outer protective clothing removal: Attendant(s) will remove the outer protective clothing from entry personnel being cautious to avoid touching the inside of the suit while removing it. Protective clothing that has

been removed at this step shall be placed in an overpack or other appropriate container for later testing and further decontamination, if needed.

(d) Station #4 - Removal of SCBA: The entry personnel are assisted in removing their SCBA by an attendant. The SCBA facepiece should be left in place and the low pressure hose held away from any potentially contaminated inner clothing.

(e) Station #5 - Removal of inner clothing: All clothing worn inside the suit must be removed in cases where the suit has been penetrated and the entry personnel are contaminated.

(f) Station #6 - Personal shower: Entry personnel should wash and rinse entire body with mild soap and water. Contain runoff water if possible, however this is an emergency situation and containment is secondary to removing contaminants from personnel.

(g) Station #7 - Drying off: Entry personnel that have showered should dry off using towels or whatever is available. Items used should be placed in an appropriate container for disposal. Emergency clothing such as disposable coveralls should be provided.

(h) Station #8 - Medical evaluation: Entry personnel should be evaluated by paramedics - checking vital signs including temperature and level of consciousness. Records of the evaluation must be kept and given to the team safety officer to be included in the members exposure records.

(i) Station #9 - Transport to emergency room: Any personnel exhibiting any signs or symptoms of exposure should be transported to the emergency room for evaluation and observation.

(6) The hazardous materials response team van should carry premeasured packets of decontamination solution mixes for the purpose of decontaminating chemical protective clothing and other equipment at the scene of a hazardous materials emergency. These solutions are not to be used to decontaminate turnouts or exposed skin under any circumstances.

(7) The primary solution used will be a simple detergent and water mixture. Other special decontamination solution mixes will only be used in those situations when it is determined that the detergent and water solution is inappropriate.

(8) Contaminated civilians that are exhibiting signs or symptoms of exposure should be treated as patients. Due to the risk of secondary contamination, all patients should undergo emergency field decontamination at the scene before being evaluated by medical personnel or being transported to the emergency room. Medical personnel should not accept any patient that has not been grossly decontaminated.

(9) The emergency field decontamination process should consist of removing the clothing from all affected body parts of the exposed person and flushing with copious quantities of water from a garden hose or low pressure one and three-quarter inch handline to remove gross contamination. Patients will be flushed for up to fifteen minutes, depending on the material recommendations on patient decontamination.

(10) Members performing patient decontamination should wear, at a minimum, full turnouts and SCBA and should avoid splashes and overspray to the extent possible. They should also undergo decontamination when they have finished decontaminating the patient.

(11) Containment of the runoff water from patient decontamination is not required. Do not delay decontamination of patients to set up containment. However, some form of privacy screen should be erected to protect the modesty of those being decontaminated.

(12) Responders that are contaminated in the process of performing rescue or other tasks will, at the minimum, be

flushed with water for a minimum of one minute. Further flushing will be performed depending on the extent of contamination and subsequent adverse health effects.

Appendix F—Wildland Fire Fighting Equipment Typings.

	<i>PUMP RATE GMP MINIMUM</i>	<i>TANK CAPACITY IN GALLONS</i>
<b><i>PUMPER/BRUSH ENGINE:</i></b>		
ICS Type 7	20	125
ICS Type 6	50	200
ICS Type 5	50	500
ICS Type 4	70	750
ICS Type 3	120	300
<b><i>PUMPER/CLASS A RATED:</i></b>		
ICS Type 2	500	400
ICS Type 1	1000	400

Ten standard fire orders  
 Fight fire aggressively but provide for safety first.  
 Initiate all action based on current and expected fire behavior.

Recognize current weather conditions and obtain forecasts.

Ensure instructions are given and understood.

Obtain current information on fire status.

Remain in communication with crew members, your supervisor, and adjoining forces.

Determine safety zones and escape routes.

Establish lookouts in potentially hazardous situations.

Retain control at all times.

Stay alert, keep calm, think clearly, act decisively.

Four common denominators of tragedy fires

1. Small fires or relatively quiet sectors of large fires.
2. Light fuels.
3. Steep slopes.
4. Change in wind speed and/or direction.

"Watch Out" Situations

1. Fire not scouted and sized up.
2. In country not seen in daylight.
3. Safety zones and escape routes not identified.
4. Unfamiliar with weather and local factors influencing fire behavior.
5. Uninformed on strategy, tactics and hazards.
6. Instructions and assignments not clear.
7. No communication link with crew members or supervisor.
8. Constructing line without safe anchor point.
9. Building fire line downhill with fire below.
10. Attempting frontal assault on fire.
11. Unburned fuel between you and fire.
12. Cannot see main fire, not in contact with someone who can.
13. On a hillside where rolling material can ignite fuel below.
14. Weather becoming hotter and drier.

15. Wind increases and/or changes direction.
16. Getting frequent spot fires across line.
17. Terrain and fuels make escape to safety zones difficult.
18. Taking nap near fire line.

National Wildlife Coordinating Group Fire Fighter II Performance Tasks

1. Agency policy for wildfires.
2. Extended attack fire orientation and dispatch.
3. Inmate orientation.
4. Fire line organization.
5. Tools and equipment.
6. Firing devices.
7. Wildland water delivery systems and pump use.
8. Introduction to wildland fire behavior.
9. Fire line safety.
10. Size up and initial attack.
11. Fire line construction.
12. Wildland fire investigation.
13. Structure protection.
14. Use of foam.
15. Mop up.
16. Compass use.
17. Map use.
18. Radio communications.
19. Incident command system.
20. Basic first-aid.
21. Hazardous materials awareness.

Appendix G—Standard apparatus operation communications.

When fire fighters ride in the tiller's seat or other remote location, an electrical signal or voice communication should be installed between the tiller's seat, work station, and driver's compartment.

- (1) These signals should be used between the driver and the fire fighters:
  - (a) One long buzz means stop;
  - (b) Two buzzes mean forward;

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(c) Three buzzes mean reverse.

(2) Before any of the above functions are undertaken, with the exception of stopping, the same signal must be both sent and received. The driver should not act without sending and receiving a confirming signal.

(3) When using hand signals, these signals are as follows:

**STOP**

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.



**RIGHT or LEFT**

Point in the desired direction with one hand and motion in a circular "come-on" gesture with the other hand at the chest level. At night direct a flashlight beam at the hand pointing in the desired direction.



**DIMINISHING CLEARANCE**

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for drivers reaction time.

At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



**AHEAD or BACK-UP**

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.



AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-085 ((Fire combat training.)) ((+) Each employer shall establish and follow a policy and procedure for drills and training so that fire fighters can remain proficient in the use of the fire department's equipment.~~

~~(2) Live fire training activities shall be conducted under the direction of the fire department training officer or by state fire service certified instructors who are qualified experts for fighting the specific type of fire.~~

~~(3) Gloves, helmets, boots or safety toe shoes shall be worn while training with ladders, appliances or hose.~~

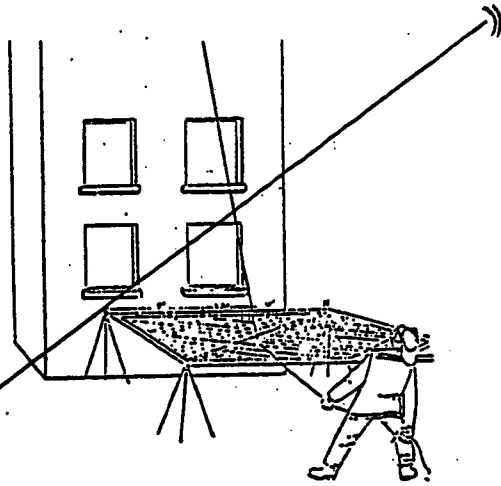
~~(4) When fire fighters are engaged in training above the ten foot level at a drill tower where use of life lines, pompier ladders or similar activities are to be undertaken, a safety net shall be erected.~~

~~(5) When fire fighters are sliding the life line, the life line shall pass through the center of the net and shall be attended by a fire fighter.~~

~~(6) During wet training exercises, only fire hose meeting the 250 pound annual test shall be used.~~

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Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-090 ((Operations.)) ((1) Special procedures to be used in the case of fires involving known hazardous materials shall be prepared in advance and made available to all fire fighters.

(2) Each fire department shall develop a set of tactical operating procedures to be used as guidelines for fire fighting operations including operating procedures for the use of life lines.

(3) Every fire department shall possess a means for identifying the specific hazards associated with fires involving hazardous materials.

(4) In cases where radioactive material is involved either through accidents, contamination or other related problems, the nearest United States Nuclear Regulatory Commission Field Inspection Unit or the Hanford Atomic Works shall be notified for information or help in disposing of the problem.

(5) When opening or closing hydrants, fire fighters shall stand at the rear of the hydrant whenever possible.

(6) If a fire fighter disappears from the fire ground, it shall be immediately reported to an officer at the scene who will then cause additional search or rescue operations.

(7) A life line gun shall be used according to the instructions along with the correct shield, guard, or attachment as recommended by the manufacturer.

(a) Life line guns shall not be loaded until just prior to the intended firing time.

(b) Neither loaded nor empty life line guns are to be pointed at any individual.

(c) A loaded life line gun shall not be left unattended.

(8) Traffic cones or other traffic control devices shall be utilized when vehicular traffic hazards exist at the fire scene.

(9) Scuba diving operations shall comply with the provisions of WISHA Commercial Diving Operations.

(10) Portable generators for temporary lighting at fire scenes shall be grounded, where practicable.

(11) Temporary cords to light fixtures shall be strung overhead where practical or against the walls of the room so as not to cause a tripping accident.)) Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-095 ((Fire overhaul.)) ((1) Prior to overhaul, buildings shall be surveyed for possible safety hazards. Fire fighters shall be informed of hazards observed during survey.

(2) Once a fire involving a building which has been previously marked as unsafe by city, county or state inspectors has been extinguished, the overhaul operations shall be held to a minimum, as determined by the commanding officer.)) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-100 ((Ladders.)) ((This section establishes the minimum requirements for the construction, care and use of the common types of ladders used in fire combat.

(1) Ladder locks or pawls on extension ladders shall be so fastened or secured to the beams that vibration and use will not cause loosening of bolts and nuts. Pawls or ladder locks shall be so constructed that the hook portion of the pawl that engages the rung shall have sufficient bearing surface or area to prevent the hook from cutting into rungs when engaged. Such hooks shall be properly finished to eliminate sharp edges and points.

(2) Staypoles or tormenters shall be furnished on all extension ladders extending over 36 feet. Staypole or tormenter spikes shall not project beyond the end of the ladder when nested.

(3) All ladders shall be stored in a manner to provide ease of access for inspection, and to prevent danger of accident when withdrawing them for use.

(4) All ladders regardless of type must be inspected thoroughly after each use. Records shall be kept of the inspections and repairs.

(5) The following metal ladder components shall be checked:

(a) Rungs for welds, damage or weakness caused by overloading or bumping against other objects, looseness and cracks, etc.

(b) Beams for welds, rivets and bolts, signs of strain or metal fatigue, and deformation from heat or overloading.

(c) Halyards for the same defects listed for wood ladder halyards and cable halyards, for fraying or breaking.

(6) Methods of fastening ladder halyards, either of wire or fibrous material, shall be in a manner that the connection is stronger than the halyard.

(7) Any defect noted in above visual inspection shall be corrected prior to testing.

(8) Every portable ladder shall be tested following the correction of defects disclosed by the visual inspections.

(9) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the requirements of NFPA Standard 1931, 1984 edition.

(10) All fire ground ladders shall be inspected, tested, and maintained in accordance with the requirements of NFPA Standard 1932, 1984 edition. To include tentative interim amendment 1932-84-2.

Note 1: Hardness testing and eddy current NDE testing is not required in the fire department annual maintenance inspection unless the individual ladder has been subjected to a high heat exposure which could have annealed the metal and diminished the structural integrity. The ladder manufacturer's recommendations should be followed with respect to hardness and eddy current testing.

Note 2: Testing should follow the recommended procedures taught by Washington state fire service training. Reserved.

**AMENDATORY SECTION** (Amending Order 83-34, filed 11/30/83)

**WAC 296-305-105 ((Aerial ladders.))** ((1) When operating aerial ladders, the manufacturer's suggested procedure shall be followed and the number of fire fighters permitted on aerial ladders shall be in accordance with the manufacturer's instructions.

(2) Ladders shall be designed to have nonskid protection on the rungs.

(3) Aerial ladders shall be used according to the requirements of the following:

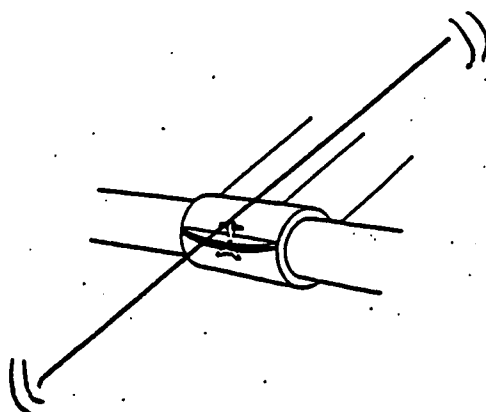
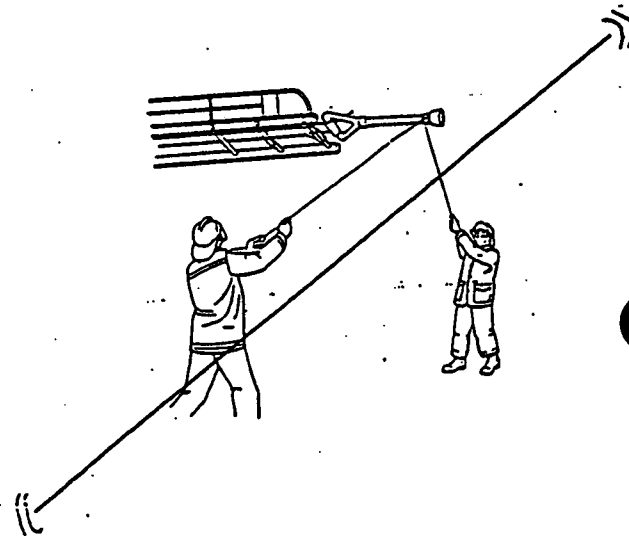
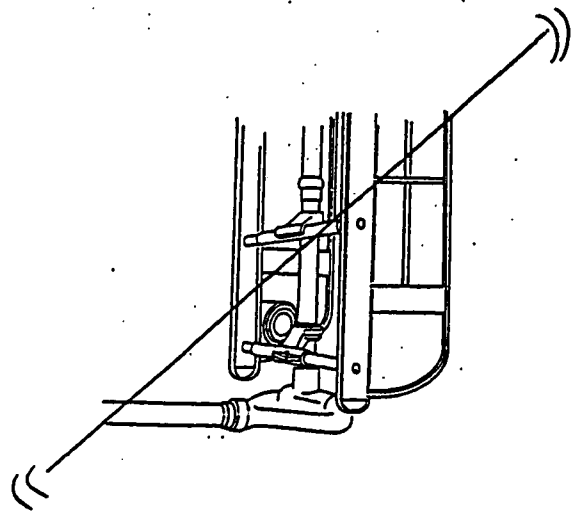
(a) Aerial ladders shall not knowingly be positioned under dangerous cornices or other loose overhanging objects that may endanger fire fighters and fire fighters working on or climbing the ladder, except where rescue operations are essential.

(b) The tip of the aerial ladder shall not be forcefully extended against a solid structure.

(c) Aerial ladders shall not be extended or retracted while fire fighters are climbing the ladder.

(d) Locking in shall not be permitted. If it is necessary for fire fighters to be positioned on the aerial, they shall be secured by a life belt.

(e) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot be accidentally dislodged while in operation.



(4) The following shall regulate the design and use of the operating turntable:

(a) Turntable controls and valves for rotating, extending, or elevating the aerial ladder shall be clearly and distinctly marked as to function.

(b) Aerial controls shall be spring loaded and have a safety catch so that the controls will return to the neutral position if the operator were incapacitated.

(c) The operator of the aerial shall be provided with a nonskid surface on the turntable surface.

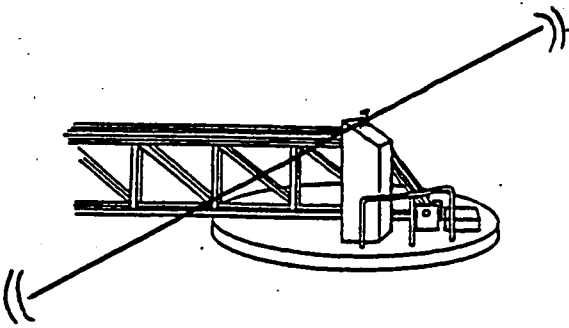
(d) The aerial operator shall remain at the turntable whenever fire fighters are working on the aerial except when used as a ground ladder.

(e) A railing of approximately 44 inches in height and if possible, not less than 36 inches in length shall be installed on the turntable in back of the operator's position.

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~~(9) Fire apparatus metal aerial ladders shall be positioned for the greatest stability feasible at the fire scene.~~

~~(10) The minimum size for wheel chocks shall be approximately 7 inches high, 8 inches wide and 15 inches long. It is suggested they be made of a metal alloy.~~



(f) A light of not less than 10,000 candlepower shall be provided at the base to illuminate the ladder at night in any position of operation.

(5) The following shall regulate the communication systems on the aerial ladders and on the automotive fire apparatus:

(a) A two way voice communication system shall be installed between the top fly of the ladder and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus shall not be moved unless the proper signal, as shown in WAC 296 305 07007(1) is received from the tillerman.

(6) Cables, pulleys, rails and rungs of aerial ladders shall be inspected for wear and tightness on a monthly basis.

(a) Pulleys on the aerial with cracks or pieces broken out of rims shall be replaced.

(b) Cables showing evidence of damage or wear shall be replaced.

(c) Rungs or rails that have been subjected to unusual impact shall be tested before usage.

(7) The automotive fire apparatus used in conjunction with aerial ladders shall be designed and used according to the following:

(a) The apparatus engine shall be able to be started from the main control panel in the event the engine dies.

(b) Ground jacks or outriggers shall be used when the aerial ladder is in operation.

(c) Ground plates shall be used under the outriggers or jacks anytime apparatus is not on a concrete paved street or alley.

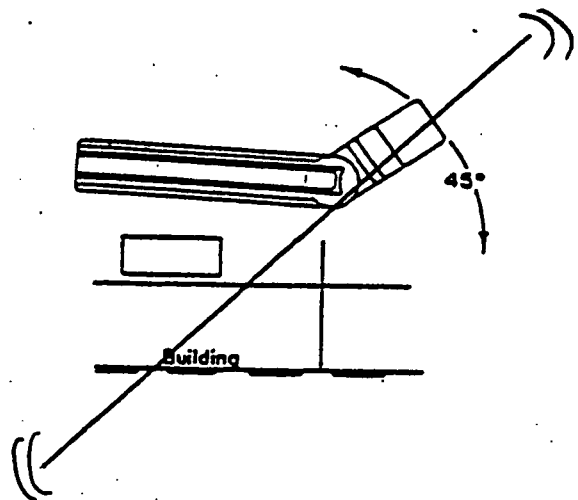
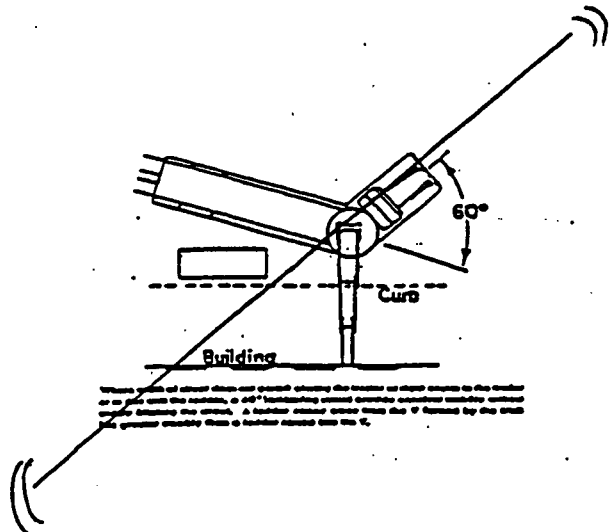
(d) Hand, airbrakes and spring brakes for fifth wheel shall be set whenever aerial ladder is in operation.

(e) In addition to ground jack supports and outriggers, wheel blocks shall be used whenever the aerial is in operation.

(f) Sand shall be put under jacks, outriggers and wheels when operating on ice or snow.

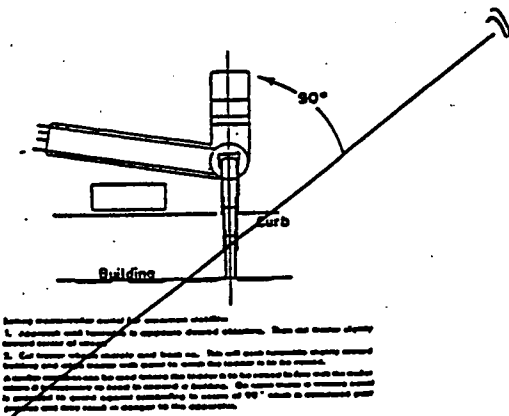
(8)(a) Annual testing of metal aerial ladders shall follow the recommendations of the current National Fire Code.

(b) It is recommended the aerial ladder as well as the support section of the apparatus which supports the turntable shall be nondestructively tested by a certified testing agency every five years. After any accident that causes structural damage this test shall be performed and all defects detected shall be corrected before apparatus is returned to service.



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Reserved.

**AMENDATORY SECTION** (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

**WAC 296-305-110 ((Elevated platforms.)) ((+))**  
 Elevated platform systems shall meet the design requirements of this section:

(a) The platform shall have a minimum floor area of 14 square feet and shall be provided with a guardrailing between 42 and 45 inches high on all sides. The railing shall be constructed so that there is no opening below it greater than 24 inches. There shall be two gates below the top railing, each of which shall be provided with suitable safety latches. A kick plate not less than 4 inches high shall be provided around the floor of the platform. Drain openings shall be provided to prevent water accumulation on the platform. A heat protective shield shall be provided on the platform for the protection of the operator.

(b) Hydraulic or pneumatic systems shall have a minimum bursting strength of at least four times the operating pressure for which the system is designed.

(c) The basic structural elements of the hydraulic or articulating boom shall have a safety factor of three.

(d) Each hydraulic or pneumatic system for the boom shall be equipped with a pilot operated check valve or other appropriate device to prevent free fall in the event of hydraulic failure.

(2) The requirements related to the controlling of elevated platforms are addressed in this subsection:

(a) A control or device shall be provided at both the lower control station and the platform control station to allow either operator to completely deactivate the platform controls. During deactivation of the platform controls, the lower controls shall remain operable.

(b) A plate shall be located at the platform control unit or units listing the following information:

- (i) Model and serial number of the manufacturer;
- (ii) Rated capacity of the platform;
- (iii) Operating pressure of the hydraulic or pneumatic systems or both;

- (iv) Caution or restriction of operation or both;
- (v) Control instructions;
- (vi) This plate shall be clearly visible to the operator at the lower control position.

(c) There shall be an operator at the lower controls at all times while the fire fighter is in the bucket.

(d) The operator at the lower controls shall make certain the fire fighter on the platform is secured by his life belt or equivalent before raising platform.

(3) Testing of elevated platforms and related apparatus shall be conducted annually.

(a) Testing of elevated platforms and related apparatus shall be in accordance with the 1988 edition of NFPA 1914.

(b) It is recommended that the boom section as well as the support section of the apparatus which supports the turntable should be nondestructively tested by a certified testing agency every five years. After any accident that causes structural damage this test shall be performed and all defects detected shall be corrected before apparatus is returned to service.

(c) Elevated platform testing shall follow the recommendations of the current National Fire Code.

(d) Fire apparatus elevated platforms shall be positioned for the greatest stability feasible at the fire scene.

(4) Communications. A two way voice communication system shall be installed between the platform and the lower control station.

(5) The automotive apparatus used in conjunction with elevated platforms shall be used in accordance with the following subdivisions:

(a) Hand or air brakes shall be set before the platform is operated.

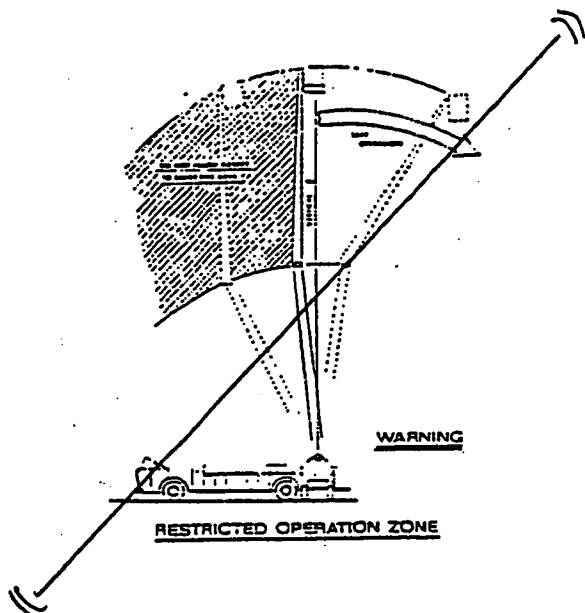
(b) Jacks or outriggers shall be used if the platform is to be elevated.

(c) Wheel blocks shall also be used when the platform is in operation unless the type of apparatus is one whose wheels lift off the ground when the jacks or outriggers are engaged.

(d) Ground plates shall be used under the outriggers or jacks any time apparatus is not on a concrete paved street or alley.

(e) Sand shall be put under jacks, outriggers and wheels when operating on ice or snow.

(6) Appliances mounted on elevated platforms. Platform mounted monitors shall be operated in accordance with the manufacturer's instructions.



Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-115 ((Electrical.)) ((1) Temporary lights shall be equipped with 20 ampere capacity electric cords with connections and insulation maintained in safe condition.~~

~~(2) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.~~

~~(3) Portable type hand lamps shall be of the molded composition or other type approved for the purpose.~~

~~(4) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lampholder or the handle.)) Reserved.~~

**WSR 96-03-032**  
**PROPOSED RULES**  
**BENTON COUNTY**  
**CLEAN AIR AUTHORITY**  
 [Filed January 9, 1996, 11:55 a.m.]

Original Notice.

Title of Rule: Regulation 1 of the Benton County Clean Air Authority.

Purpose: Rename current regulations with new name and jurisdiction of Benton County and remove references to Franklin and Walla Walla counties. Update references to RCWs and WACs which are no longer correct. Update asbestos regulation to include emergency safeguards. Set agricultural burning fees. Update open burning rules for consistency with state rules.

Statutory Authority for Adoption: Chapter 70.94 RCW.  
 Statute Being Implemented: Chapter 70.94 RCW.

Summary: The proposed regulation changes will remove any references to Franklin and Walla Walla counties

which are no longer under the jurisdiction of our authority. The name of our regulation will be changed to Regulation 1 of the Benton County Clean Air Authority. There are a number of references to various WACs and RCWs which are no longer correct due to recent changes in the WACs and RCWs. These references will be corrected and updated. Also making updates to asbestos, open burning and agricultural burning articles and setting agricultural burning fees.

Reasons Supporting Proposal: To bring the local regulation up-to-date and make it consistent with state law chapter 70.94 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David A. Lauer, Benton County Clean Air Authority, 650 George Washington Way, Richland, WA 99352, (509) 943-3396.

Name of Proponent: Benton County Clean Air Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Regulation 1 establishes general and specific requirements for the control of air pollution within Benton County. The proposed changes are to update Regulation 1 with the Authority's new name and jurisdiction. Walla Walla County withdrew from the authority in December 1993, and Franklin County withdrew in December of 1994. The authority was renamed the Benton County Clean Air Authority. The proposed changes will also update several references to WACs and RCWs which are no longer correct due to recent changes in the WACs and RCWs. Finally, the proposed changes will update Article 5, "Open Burning," Article 6, "Agricultural Burning," and Article 8, "Asbestos." The updates will bring our burning programs in line with other programs across the state, establish an agricultural burning fee, and define emergency safeguards for asbestos spills. The proposed changes will provide consistency, clarification, and corrections to the existing Regulation 1.

Proposal Changes the Following Existing Rules: Please see explanation above.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Kennewick Annex, Meeting Room, 5600 West Canal Place, Kennewick, WA 99336, on March 21, 1996, at 7:00 p.m.

Submit Written Comments to: Contact David A. Lauer, Benton County Clean Air Authority, 650 George Washington Way, Richland, WA 993529 [99352] by March 31, 1996.

Date of Intended Adoption: April 18, 1996.

January 8, 1996  
 David A. Lauer  
 Control Officer

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

PROPOSED

**WSR 96-03-033**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER'S OFFICE**

[Filed January 9, 1996, 2:10 p.m.]

Continuance of WSR 95-24-098.

Preproposal statement of inquiry was filed as WSR 95-16-128.

Summary: Continuation of adoption date.

Date of Intended Adoption: January 17, 1996.

January 9, 1996

Deborah Senn

Insurance Commissioner

**WSR 96-03-038**  
**WITHDRAWAL OF PROPOSED RULES**  
**LOTTERY COMMISSION**

[Filed January 10, 1996, 12:27 p.m.]

The lottery is withdrawing the proposal for WAC 315-11A-157 ("Summer Gold"). This rule was proposed under the notice filed as WSR 95-23-112, but was not adopted at the January Lottery Commission meeting.

Evelyn P. Yenson  
 Director

**WSR 96-03-060**  
**PROPOSED RULES**  
**LAKE WASHINGTON**  
**TECHNICAL COLLEGE**

[Filed January 16, 1996, 9:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-034.

Title of Rule: Hazing prohibited.

Purpose: To provide for the implementation of SSB 5075 by establishing a hazing policy.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: Section 4, chapter 514, Laws of 1993.

Summary: Proposed WAC 495D-120-085 Hazing prohibited, defines hazing, sets forth penalties application of student conduct code, and describes sanctions for impermissible conduct not amounting to hazing.

Reasons Supporting Proposal: The legislature passed SSB 5075 prohibiting hazing at institutions of higher education. State law requires adoption of rules for hazing violations and sanctions against persons or groups engaged in hazing activities.

Name of Agency Personnel Responsible for Drafting and Implementation: Gary Cohn, 11605 132nd Avenue N.E., Kirkland, WA, 828-5608; and Enforcement: Donald Fowler, 11605 132nd Avenue N.E., Kirkland, WA, 828-5601.

Name of Proponent: Lake Washington Technical College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: SSB 5075 requires institutions of higher education to adopt rules for hazing violations.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the rule is not subject to the requirement of the Regulatory Fairness Act because the rule is for the purpose of implementing SSB 5075 and will not impact businesses.

Hearing Location: Lake Washington Technical College, 11605 132nd, Kirkland, WA 98034, on March 13, 1996, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Peggy Green by March 10, 1996, TDD (206) 828-5625, or (206) 828-5601.

Submit Written Comments to: Gary Cohn, 11605 132nd Avenue N.E., Kirkland, WA 98034, FAX (206) 828-5611, by March 10, 1996.

Date of Intended Adoption: March 13, 1996.

January 5, 1996

D. W. Fowler

President

**Chapter 495D-120 WAC**  
**STUDENT CONDUCT CODE**

NEW SECTION

**WAC 495D-120-085 Hazing prohibited.** (1) Hazing is prohibited.

(2) 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.

(3) Penalties.

(a) Any student organization, association or club that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing and

(ii) Be denied recognition by Lake Washington Technical College as an official organization, association, or club on this campus. If the organization, association, or club is a corporation, whether for profit or non-profit, the individual directors of the corporation may be held individually liable for damages.

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

(c) Forfeiture of state-funded grants, scholarships, or awards may include permanent forfeiture, based upon the seriousness of the violations.

(d) The Student Code of Conduct may be applicable to hazing violations.

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

(4) Sanctions for Impermissible Conduct not Amounting to Hazing.

(a) Impermissible conduct associated with initiation into a student organization or club or any pastime or amusement engaged in, with respect to the organization or club, will not be tolerated.

(b) 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.

(c) 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.

**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 96-03-065**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed January 16, 1996, 1:25 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-23-069.

**Title of Rule:** Forest reproductive material.

**Summary:** The proposal raises certification fees for forest reproductive material.

**Reasons Supporting Proposal:** Industry request to reflect current cost of operating forest reproductive program.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Max Long, Yakima, Washington, (509) 575-2750.

**Name of Proponent:** Washington State Crop Improvement Association, public; and Washington State Department of Agriculture, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Per industry request the proposal increases certification fees for forest reproductive material. The increase will cover the current operating cost of the forest reproductive material program.

**Proposal Changes the Following Existing Rules:** [No information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. All businesses affected by this proposal are large businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

**Hearing Location:** 2015 South First Street, Yakima, WA, on March 25, 1996, at 1:30 p.m.

**Assistance for Persons with Disabilities:** Contact Cathy Jensen by March 25, 1996, TDD (360) 902-1996.

**Submit Written Comments to:** Max Long, 2015 South First Street, Yakima, WA 98903, FAX (509) 454-4395, by March 25, 1996.

**Date of Intended Adoption:** April 8, 1996.

January 16, 1996  
K. Diane Dolstad  
Assistant Director

**AMENDATORY SECTION** (Amending Order 1930, filed 5/22/87)

**WAC 16-319-041 Application for certification of forest reproductive material.** (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

(a) The application should show all classes for which certification services are requested.

(b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.

(c) Applicant shall be responsible for payment of fees for certification services.

(d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.

(e) Certifying agency reserves the right to refuse certification service to applicant.

(f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

(i) For subzone collection, areas shall be defined by legal description.

(ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: *Provided*, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: *Provided*, That the

certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	<del>(\$20.50/hr.)</del> \$21.55/hr.	<del>\$20.50/hr. When billed)</del> \$21.55/hr. When billed	
Source Identified Classes:			
Lots 11 bu. and more	<del>(\$0.70/bu.)</del> \$0.73/bu.	<del>\$20.50/hr.)</del> \$21.55/hr.	
Lots 6-10 bu.	<del>(\$16.50/lot)</del> \$17.34/lot	<del>\$20.50/hr.)</del> \$21.55/hr.	
Lots 0-5 bu.	<del>(\$10/lot)</del> \$10.51/lot	<del>\$20.50/hr.)</del> \$21.55/hr.	
Audit	<del>(None)</del> None	<del>\$20.50/hr. When billed)</del> \$21.55/hr. When billed	

(b) Tree certification - ~~(\$20.50)~~ \$21.55/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at ~~(\$20.50)~~ \$21.55/hour payable when billed.

(d) OECD certification (certificates of provenance) - ~~(\$0.50)~~ \$0.52 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

**WSR 96-03-066  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed January 16, 1996, 1:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-17-042.

Title of Rule: WAC 388-501-0130 Administrative controls.

Purpose: To place in administrative rule, medical audit procedures concerning sampling and projection of overpayments. It will also exclude the twenty day notice to providers for third party liability audits.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.290.

Statute Being Implemented: RCW 74.08.090, 74.09.290.

Summary: It will inform medical providers of the process used in selecting a sample for audit and the process for projecting overpayments.

Reasons Supporting Proposal: This will assure consistency in how sampling and projecting of overpayment procedures are applied. Audits will be expedited with no negative impact on providers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mel Hill, Nursing Home, Hospital Audit, 586-8281.

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.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

Background: The Office of Nursing Home/Hospital Audit, Administrative Services Division of the Department of Social and Health Services (DSHS) is proposing the placement of medical audit procedures concerning sampling and projection of overpayments into administrative rule. An additional change being proposed to WAC 388-501-0130 would exempt third party liability compliance audits from the present twenty day notice to medical providers when patient medical records are to be audited.

Summary of Rule Changes: The proposed amendments to the medical audit program rules for sampling and projection of overpayments will assure consistency in how sampling and projection of overpayment procedures are applied.

The proposed amendments will also exclude third party liability compliance audits from the provider twenty day notice requirement which will allow DSHS to expedite these audits with no additional impact on providers.

Cost of Compliance: Potential costs to affected businesses will be in staff time required of providers to pull necessary medical records identified in the audit sample and to answer questions or clarify issues that might surface during the on-site part of the audit. Based on past reporting by providers who have been audited, this time totals one to two hours per audit. The staff person performing this function is generally the office manager. A poll of six physician and dental offices confirmed a salary range of \$12.00 to \$20.00 per hour. Therefore, the audit cost to a provider would be an average minimum of \$18.00 and an average maximum of \$30.00. Based on twenty audits per year (average number of audits over the past three years) the

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total cost per year to audit twenty providers would range from \$360.00 to \$600.00 for all audits.

Audits are authorized under RCW 74.09.290. Whether an audit is based on a sample of claims or on all claims of a provider, provider staff time is required to pull necessary records for the audit and to answer questions of the auditors. Using a sample to audit the provider's business would be less disruptive and less costly to the provider than the available alternative of reviewing 100% of the provider's claims.

Affected Business: Per the medical assistance administration's 1994 annual report, there are 13,840 medical providers participating in the Medicaid program who are subject to audit.

PARTICIPATING PROVIDERS<sup>1</sup>  
BY TYPE OF SERVICE

Type of Service	Number of Providers
Physician	6,254
Dentist	2,052
Pharmacist	1,305
Optometrist/Optician	620
Physical Therapist	349
Chiropractors	342
Anesthesiologists	335
Durable Medical Equipment Supplier	250
Ambulance	226
Podiatrist	224
Case Manager	191
Hospital <sup>2</sup>	154
Maternity Support	154
Hearing Aids Supply	148
Prosthetist/Orthotist	137
Other Providers	123
Lab Facility	104
Advanced Registered Nurse Practitioner	97
Audiologist/Speech Pathologist	91
Nurse Anesthetist	66
Home Health Agency	66
Ambulatory Surgery Center	64
Psychologist	64
Oxygen	52
Midwife	42
Radiology	34
Rural Health Center	36
Other	260
Total <sup>3</sup>	13,840

<sup>1</sup> 1 A participating provider is a provider who submitted a bill for payment during Fiscal Year 1994.

<sup>2</sup> 2 Facility count for in-state and border hospitals.

<sup>3</sup> 3 Excludes long-term care facilities.

Again, based on a three year period, the average time auditors spend in a provider's office conducting the on-site audit is two days. Therefore, disruption to a provider's office is minimal

The standards industrial codes for affected businesses are: 8011, Physicians (MD) including specialists, offices and clinics of; 8021, Dentist offices and clinics of; 5912, Pharmacist; 5995, Opticians, retail; 8042, Optometrists,

offices and clinics of; 8049, Physical therapist office of; 8041, Chiropractors offices and clinics of; 8011, Anesthesiologists offices of; 7389, Durable medical equipment supplier; 3711, Ambulances; 8043, Podiatrists offices and clinics of; 7389, Case managers; 8069, Hospitals, specialty, except psychiatric; 7389, Maternity support; 5999, Hearing aids supply, retail; 7389, Prosthetist/Orthotist; 8071, Lab facility; 8049, Advanced registered nurse practitioner; 8049, Audiologist/Speech pathologist; 7389, Nurse anesthetist; 8082, Home health agency; 8011, Ambulatory surgery center; 8049, Psychologist; 7389, Oxygen; 8049, Midwife's offices; 8011, Radiology; 7389, Rural health center.

Analysis: As stated above, the economic impact proposed amendments on small business will be in provider time required to pull medical records and to assist auditors while on-site. Based on the figures identified under section "costs of compliance" the anticipated costs to the affected business will be insignificant and are not disproportionate.

With the exception of hospitals, the time involved in a provider's office to conduct an audit will seldom exceed two days. Therefore, the disruption to a provider's office is minimal.

All hospitals that would be subject to audit in the state of Washington have more than fifty employees. Therefore, hospitals are not considered small businesses and would not be impacted as a small business.

A copy of the statement may be obtained by writing to Mel Hill, Office of Nursing Home, Hospital Audit, 6330 Capitol Boulevard, Tumwater, WA 98504, phone (360) 586-8281, or FAX (360) 586-5923.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency within HB 1010, Section 201 (RCW 34.05.328).

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on February 29, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor by February 15, 1996, TDD (360) 753-0625, or SCAN 753-0625.

Submit Written Comments to: Identify WAC Numbers, Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, FAX (360) 664-0118, by February 22, 1996.

Date of Intended Adoption: February 29, 1996.

January 16, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

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

**WAC 388-501-0130 Administrative controls.** The department shall establish and enforce such administrative controls as may be necessary to prevent abuses by vendors or clients including, but not limited to, determination of need for and duration of services, assurance of justification of services, reasonableness of costs, and operation of the program within limits of the legislative appropriation.

(1) The department shall conduct audits and investigations of providers of medical and other services provided as

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authorized by chapter 74.09 RCW to determine compliance with the rules and regulations of the program.

(a) In the conduct of such audits or investigations, the secretary or authorized representative may examine only those records or portion thereof, including patient records, pertaining to services rendered by a health care provider and reimbursed by the department. Copies of, but not original, records shall be removed from the premises of the health care provider. The secretary shall destroy all copies of client medical records made during an audit or investigation. This destruction will take place not later than ninety days after the date when no further actions, concerning a particular audit, can be taken or are going to be taken by the department, the provider, or the courts. The department shall notify the provider in writing that such destruction has taken place.

(b) The department shall give twenty days advance notice to a provider that the patient medical records are to be audited for compliance with program rules and standards. This notice shall not:

(i) Apply to provider investigations for fraudulent or abusive practices; ~~(and)~~

(ii) Include names of patient files to be reviewed. For the purposes of this section, prescriptions or records of drugs dispensed are not to be defined as patient medical records; and

(iii) Apply to Medicaid provider business and financial records and patient financial records when reviewed as part of a third-party liability compliance audit.

(c) The department shall work with the provider to minimize inconvenience and disruption of health care delivery.

(2) In conducting a probability sample audit, the department shall select the sample on the basis of recognized and generally accepted sampling methods. The department shall examine the sample for compliance with relevant federal and state laws and regulations, department billing instructions and department numbered memoranda. The department shall use a sample that is sufficient to ensure a minimum ninety-five percent confidence level when projecting the overpayment.

(a) The department shall recover statistically calculated overpayments made to Washington state Title XIX providers when the department utilizes probability sampling and the audit findings demonstrate an overpayment has been made. The department shall ensure all overpayments and underpayments reflected in the probability sample are totaled and extrapolated to the universe from which the sample was drawn to calculate the amount to be recovered. The department shall not consider nonbilled services or supplies in the calculation of underpayments and overpayments.

(b) When the results of a probability sample are used to extrapolate the amount to be recovered, the department shall ensure the demand for recovery is accompanied by a clear description of:

(i) The universe from which the sample was drawn;

(ii) The sample size and method used to select the sample; and

(iii) The formulas and calculation procedures used to determine the amount to be recovered.

(c) As used in this section, the department shall apply the following definitions:

(i) "Extrapolation" means the methodology whereby an unknown value can be estimated by projecting the results of a probability sample to the universe from which the sample was drawn with a calculated precision (margin of error); and

(ii) "Probability sampling" means the standard statistical methodology in which a sample is selected based on the theory of probability (a mathematical theory used to study the occurrence of random events).

(3) Based upon the findings of an audit, investigation, or other proceeding, the secretary or authorized representative may order repayment of excess benefits or payments received by the provider, plus interest on the amount of excess benefits and assess civil penalties as provided for in chapter 74.09 RCW. The department shall assess civil penalties in an amount not to exceed three times the amount of excess benefits or payments received by the provider.

~~((3))~~ (4) When the department imposes a civil penalty or suspends or terminates a provider from the program, the department shall give written notice of the action taken to the appropriate licensing agency and/or disciplinary board. The department may refer to the appropriate disciplinary board providers who have demonstrated a significant noncompliance with the provisions of the medical care program through the results of an audit, investigation, or utilization review function. The Washington state medical disciplinary board shall generally serve in an advisory capacity to the secretary in the conduct of audits or investigations of physicians.

~~((4))~~ (5) The secretary or authorized representative shall refer all cases to the appropriate prosecuting authority for possible criminal action where the department finds substantial evidence supporting a finding of fraud. Prima facie evidence does not, in itself, provide a substantial basis for criminal prosecution.

**WSR 96-03-067  
WITHDRAWAL OF PROPOSED RULES  
FOREST PRACTICES BOARD**

(By the Code Reviser's Office)

[Filed January 16, 1996, 4:00 p.m.]

WAC 222-10-030, 222-16-075, 222-21-010, 222-21-020, 222-21-030, 222-21-040, 222-30-075, 222-38-020 and 222-38-030, proposed by the Forest Practices Board in WSR 95-14-028, appearing in issue 95-14 of the State Register, which was distributed on July 19, 1995, 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 96-03-068  
WITHDRAWAL OF PROPOSED RULES  
GAMBLING COMMISSION**

(By the Code Reviser's Office)

[Filed January 16, 1996, 4:01 p.m.]

WAC 230-08-080, proposed by the Gambling Commission in WSR 96-14-096, appearing in issue 95-14 of the State

Register, which was distributed on July 19, 1995, 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 96-03-071**  
**PROPOSED RULES**  
**OFFICE OF MARINE SAFETY**  
[Filed January 17, 1996, 10:45 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-08-012.

**Title of Rule:** Proposing chapter 317-31 WAC, Cargo and passenger vessels—Substantial risk; and repealing chapter 317-30 WAC, Cargo and passenger vessel screening rules.

**Purpose:** To establish a process for identifying accepted industry standards for the operation, management and crewing of cargo and passenger vessels; and for determining when a vessel falls below those standards to a degree that poses a substantial risk of harm to public health and safety, and the environment.

**Statutory Authority for Adoption:** RCW 43.21I.030 and 88.46.050.

**Statute Being Implemented:** RCW 88.46.050.

**Summary:** Proposed chapter 317-31 WAC, Substantial risk rules, expands on the existing chapter 317-30 WAC, Screening rules, to more clearly describe how a vessel is determined to pose a substantial risk. The proposed rules are divided into an introductory section and three parts.

The substantial risk rules contain the same purpose and application sections as the screening rules, but add a definition section.

Part 1 of the substantial risk rules describes the screening process to identify vessels for boarding. WAC 317-31-100 Vessel screening, describes the matrix used to evaluate "risk predictors" that identify the potential risk a vessel poses. WAC 317-31-110 requires entering vessels to submit an advanced notice of entry (ANE) if an advanced notice of arrival (ANA) is not submitted to the United States Coast Guard. WAC 317-31-120 requires vessels operating primarily intrastate to submit a transit schedule in lieu of an ANE/ANA. WAC 317-31-130 and 317-31-140 require safety reports if a vessel experiences a main system failure or other failure that poses a threat to marine safety.

Part 2 of the rules describes the vessel boarding process to determine whether a vessel poses a substantial risk. WAC 317-31-200 defines accepted industry standards. WAC 317-31-210 describes how the Office of Marine Safety determines substantial risk. WAC 317-31-220 establishes a process for determining accepted industry practices that are incorporated in the office's boarding checklist for cargo and passenger vessels. WAC 317-31-230 establishes a process for determining accepted industry practices that are incorporated in the office's boarding checklist for fishing vessels. WAC 317-31-240 requires event reports from vessels that experience a casualty or spill in state waters. WAC 317-31-250 describes the office's boarding policy.

Part 3 of the rules describes the office's enforcement policies. WAC 317-31-300 outlines the options the office has in mitigating the risk of a vessel determined to pose a substantial risk. WAC 317-31-310 states the office's authority to issue penalties for violations of rules or orders.

**Reasons Supporting Proposal:** Under RCW 88.46.050, the Office of Marine Safety is charged by the legislature with ensuring the safety of marine transportation and the protection of the state's natural resources. To do this, the office must identify and take action against cargo and passenger vessels that pose a substantial risk of harm to public health and safety, and the environment.

The office developed a two-step program to make the determination of substantial risk. First all cargo and passenger vessels are screened to assess their potential risk based on historical data. Second, vessels with a high potential risk are boarded to gather real-time information to make a determination of substantial risk.

New rules are required to more clearly define when a vessel poses a substantial risk. The rules provide a definition of substantial risk and establish a process where industry aids the office in defining accepted industry practices. Vessels pose a substantial risk when they fall below accepted industry practices to a degree that is unacceptable. The process established by the rule will help define levels of vessel operation, management and crewing that indicate substantial risk.

**Name of Agency Personnel Responsible for Drafting:** Jeff Fishel, Office of Marine Safety, (360) 664-9124; **Implementation:** Nina Carter, Office of Marine Safety, (360) 664-9132; and **Enforcement:** Stan Norman/John Jenicek, Seattle/Portland, (206) 389-2426/(503) 229-6541.

**Name of Proponent:** Office of Marine Safety, governmental.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** Accompanying this notice are accepted industry standards for cargo and passenger vessels as adopted by the advisory group on cargo and passenger vessel substantial risk criteria. Under the proposed rule WAC 317-31-220(2), the office will allow thirty days for public comment following publication of these standards. If no changes are made as a result of public comment, the standards will be incorporated into the office's boarding materials effective March 13, 1996.

A fishing vessel boarding checklist containing interim standards for fishing vessels will be published in a subsequent issue of the Washington State Register.

For copies of the standards or a summary of public comments with the office's responses, or both, please contact the Office of Marine Safety, P.O. Box 42407, Olympia, WA 98504-2407, phone (360) 664-9110, Attention: Cheryl Dale.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The proposed chapter 317-31 WAC, Cargo and passenger vessels—Substantial risk, is intended to provide owners and operators of cargo and passenger vessels clear standards for determining when a vessel poses a substantial risk of harm to public health and safety, and the environment. The rule is divided into three parts: Screening,

boarding and enforcement. The parts addressing screening and enforcement are not significantly changed from the current chapter 317-30 WAC, Cargo and passenger vessel screening rules.

The part addressing boarding establishes a two-step process for determining whether a vessel poses a substantial risk. First, vessels are evaluated in light of accepted industry standards developed by a Vessel Inspection Council based on federal and international requirements. There are two councils - one for cargo and passenger vessels, and another for fishing vessels. Second, for those vessels that fall below accepted industry standards, the office determines whether the vessel's deficiencies pose a substantial risk. With the aid of the inspection councils the office has identified specific violations that alone and in combination may pose a substantial risk.

The anticipated effect of these rules is to provide the office and vessel owners and operators with clear guidelines for determining substantial risk. The office will work with industry representatives to publish a pamphlet explaining what a vessel owner or operator may expect from a vessel boarding based on accepted industry standards.

**Proposal Changes the Following Existing Rules:** Upon adoption of the proposed rules, chapter 317-30 WAC is repealed. The primary changes are the addition of a process to establish and modify accepted industry standards and the requirement to submit event reports for marine casualties, oil spills, and near misses in Washington waters.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

Determination of Cost of Compliance  
Proposed Chapter 317-31 WAC  
Cargo and passenger vessels—Substantial risk

### Determination Summary

Proposed chapter 317-31 WAC will incorporate the reporting, screening, boarding and enforcement requirements of the current rules, chapter 317-31 WAC. The proposed rules do impose one additional reporting requirement: WAC 317-31-240 Event reports. These reports must be submitted by a cargo or passenger vessel owner or operator whose vessel experiences a marine casualty, disabling, near-miss incident or oil spill in Washington waters. The Office of Marine Safety determines that this reporting requirement does not pose more than minor costs on businesses that must comply with the proposed rules. The determination is based on findings that such events are relatively rare in Washington waters and, when they do occur, the office will accept copies of reports made to the United States Coast Guard for marine casualties, or a completed form provided by the office.

### Statutory Objectives

RCW 88.46.050 requires the Office of Marine Safety to identify and take action against vessels that pose a substantial risk of harm to the public health and safety, and the environment. The legislature's stated purpose of this program is "to ensure the safety of marine transportation within the navigable waters of the state and to protect the state's natural resources . . ." RCW 88.46.050(1).

The legislature suggested that the office first "screen" vessels to determine if a vessel may pose a substantial risk by using various sources of historical data including casualty data and other data collected by the office. RCW 88.46.050 (2)(a). If a vessel may pose a substantial risk, the office should board the vessel to determine whether it complies with applicable state and federal requirements. Vessel boarding, however, may only be performed during the vessel's scheduled stay in port. RCW 88.46.050 (2)(d).

If a vessel does pose a substantial risk, the office should request the United States Coast Guard to deny entry into state waters, notify the state's spill response system, or take other appropriate enforcement actions. RCW 88.46.050 (2)(b), (c) and (e).

### Summary of Proposed Rule

Proposed chapter 317-31 WAC, Substantial risk rules, expand on the existing chapter 317-30 WAC, Screening rules, to more clearly describe how a vessel is determined to pose a substantial risk. The proposed rules are divided into an introductory section and three parts.

The substantial risk rules contain the same purpose and application sections as the screening rules, but adds a definition section.

Part 1 of the substantial risk rules describes the screening process to identify vessels for boarding. WAC 317-31-100 Vessel screening, describes the matrix used to evaluate "risk predictors" that identify the potential risk a vessel poses. WAC 317-31-110 requires entering vessels to submit an advanced notice of entry (ANE) if an advanced notice of arrival (ANA) is not submitted to the United States Coast Guard. WAC 317-31-120 requires vessels operating primarily intrastate to submit a transit schedule in lieu of an ANE/ANA. WAC 317-31-130 and 317-31-140 require safety reports if a vessel experiences a main system failure or other failure that poses a threat to marine safety.

Part 2 of the rules describes the vessel boarding process to determine whether a vessel poses a substantial risk. WAC 317-31-200 defines accepted industry standards. WAC 317-31-210 describes how the Office of Marine Safety determines substantial risk. WAC 317-31-220 establishes a process for determining accepted industry practices that are incorporated in the office's boarding checklist for cargo and passenger vessels. WAC 317-31-230 establishes a process for determining accepted industry practices that are incorporated in the office's boarding checklist for fishing vessels. WAC 317-31-240 requires event reports from vessels that experience a casualty or spill in state waters. WAC 317-31-250 describes the office's boarding policy.

Part 3 of the rules describes the office's enforcement policies. WAC 317-31-300 outlines the options the office has in mitigating the risk of a vessel determined to pose a substantial risk. WAC 317-31-310 states the office's authority to issue penalties for violations of rules or orders.

### Regulatory Fairness Act Requirements

The Regulatory Fairness Act, chapter 18.95 [19.85] RCW, requires the Office of Marine Safety to determine if a proposed rule will impose more than minor costs on businesses within an industry. Industry is defined as all businesses in Washington in any four-digit standard industrial classification. If the rule exceeds the threshold of

imposing more than minor costs, the office must determine if the proposed rule disproportionately impacts small businesses. Small businesses are those companies with fifty or fewer employees. If there is a disproportionate impact, the office is required to mitigate the impact to small businesses where legal and feasible in meeting the stated objectives of the statute being implemented.

### Threshold Determination

#### Event Reports

With one exception, the proposed substantial risk rules impose no new compliance costs on industry than those imposed by the current screening rules. The one new requirement imposed by the substantial risk rules is WAC 317-31-240 Event reports. This rule requires vessel owners and operators to submit event reports if their vessel experiences a marine casualty, disabling, near-miss incident or oil spill in Washington waters. An event report must describe the event, what vessels or facilities were involved, provide a brief analysis of known causes and contributing factors, and include a description of measures taken to avoid similar events in the future. The report should be submitted no later than thirty days after the event occurred.

The rule requires cargo, passenger and fishing vessel owners or operators to submit event reports. By definition, these are self-propelled vessels 300 gross tons or more.

The office conducted a compliance cost survey to help determine the impact this proposed requirement will have affected businesses. Approximately 300 questionnaires were mailed to cargo and passenger vessel owners and operators, fishing vessel owners and operators, vessel agents, public ports, classification societies, pilots, and others associated with Washington's maritime industry. Fourteen questionnaires were returned.

The fourteen responses present a cross section of the industry in Washington. The office received responses from a passenger vessel owner, three cargo vessel owners/operators, a fishing vessel owner, a barge operator, two vessel agents, three public port districts, the Canadian Coast Guard, a classification society and one vessel master. The largest company employs 6,000 while the smallest employs six. One company met the definition of a Washington small business with fourteen employees, of whom ten are employed in Washington.

The following is a compilation of the survey results concerning additional costs imposed by the proposed reporting requirement:

1. Additional costs for submitting event reports: Of the companies that responded, the passenger vessel owner, a cargo owner/operator, the fishing vessel owner, and two vessel agents stated additional costs would be incurred. Two cargo vessel owner/operators said no additional costs would be imposed. The seven remaining respondents found the question not applicable.

2. Amount of additional costs for submitting event reports: The passenger vessel owner estimated the additional cost at \$500. The fishing vessel owner estimated the additional cost at \$60.50. A vessel agent estimated the additional cost at \$1,300. The remaining respondents indicating there would be additional costs did not provide cost estimates.

Cost drivers were described as mainly administrative in nature, and included copying, mailing, and collection of information.

One cargo vessel owner/operator stated that any costs associated with submitting an event report would be handled by their United States representative under the existing contract rate of \$200 per vessel per transit. Another cargo vessel owner/operator stated that it depended on the severity of the event.

3. Other additional costs: One cargo vessel owner/operator, the passenger vessel owner/operator, fishing vessel owner/operator, and a vessel agent stated that additional costs would be incurred. The vessel agent estimated that about \$250 in travel costs would be incurred to get to the scene of incident to collect the necessary information.

#### United States Coast Guard Reports

The United States Coast Guard requires a report whenever a vessel experiences a marine casualty in the navigable waters of the United States, its territories or possessions, or whenever the casualty involves a US-flagged vessel. 46 CFR section 4.03-1 and 4.05-1. Under the proposed rule requiring event reports, WAC 317-31-240, a vessel owner or operator who submits a report to the United States Coast Guard may submit a copy of that report to the office.

The compliance cost survey asked respondents to indicate whether they had submitted reports to the United States Coast Guard under 46 CFR subpart 4.05-1 and, if so, estimate the cost per report filed.

Three respondents stated they had filed reports to the United States Coast Guard. The fishing vessel owner estimated the filing cost \$30.50 per report; the passenger vessel owner estimated the filing cost \$100 per report; and a cargo vessel owner/operator stated that the cost of the filing depended on the severity of the event.

#### Analysis

The survey results indicate that the event reporting requirement may impose minor additional costs to businesses in Washington's maritime community.

The cost of complying with the event report requirement will fall on vessel owners and operators. Other businesses that indicate increased costs under this requirement provide support services to vessel owners/operators and will pass on all or most of the cost through their fee schedules.

The frequency of marine casualties, near-misses and oil spills in Washington waters will also impact how often costs are incurred. In 1995, the Office of Marine Safety received thirty-five oil spill reports, eleven casualty reports, and one near-miss report from cargo, passenger and fishing vessels 300 gross tons or more. In 1994, the office received eleven oil spill reports, twenty-three casualty reports, and three near-miss reports. In these two years, cargo, passenger and fishing vessels made approximately 7,500 transits per year. Based on yearly traffic, the likelihood that a company will file an event report is .3% for an oil spill, .2% for a casualty and .03% for a near-miss.

The office determines that the event report requirement will impose minor costs on affected vessel owners for the following reasons:

PROPOSED

1. For all marine casualties, vessel owners will be able to meet the requirement by submitting a copy of the report submitted to the United States Coast Guard. Costs for submitting this report to the office will involve copying and mailing charges substantially less than \$50 per report.

2. Including near-miss incidents in the requirement is unique and will require effort not duplicated by another agency. However, many vessel owners and operators now incorporate internal near-miss reporting in recognition of the importance of this information. Further, state law requires all vessel owners and operators to report near-misses to the United States Coast Guard within one hour of the event. RCW 88.46.100. State-licensed pilots are also required to report near-misses to the State Board of Pilotage Commissioners.

3. Complying with the event report rule will not require vessel owners to develop new information. In such an event, many entities could be involved - classification societies, cargo representatives, insurance representatives, the United States Coast Guard, and other governmental agencies. This is particularly true for oil spills. Therefore, vessel owners will be involved in learning as much as they can about their vessel's casualty, oil spill or near miss for their own purposes. The report will simply require a summary of that information.

4. Office's statutory directive is to protect the safety of marine transportation and the state's natural resources. Knowledge of events is essential to identifying potential threats to this statutory objective.

5. The office has an extensive technical outreach program that will include an information pamphlet providing an easy to use event report form that will simplify the reporting requirement. The pamphlet will be sent to an extensive mailing list of interested parties and be distributed by vessel inspectors from the office to each vessel boarded.

#### Determination of Minor Costs

The cost to a vessel owner/operator to complete and submit an event report will involve primarily administrative costs - completing a report form and submitting the form to the office. Based on the low frequency of casualty, oil spill and event reports over the last two years to the office, this cost may impact some companies, but the impact will be minor.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: On March 5, 1996, a public hearing will be held at 7 p.m. at the Sea-Tac International Airport, Theater Room; and on March 6, 1996, a public hearing will be held at 7 p.m. at the Clark County PUD, Community Room, 8600 N.E. 117th Avenue, Vancouver, WA.

Assistance for Persons with Disabilities: Contact Cheryl Dale by February 28, 1996, (360) 664-9110.

Submit Written Comments to: Jeff Fishel, FAX (360) 664-9184, by March 19, 1996.

Date of Intended Adoption: April 3, 1996.

January 17, 1996  
Barbara Herman  
Director

## Chapter 317-31 WAC CARGO AND PASSENGER VESSELS—SUBSTANTIAL RISK

### NEW SECTION

**WAC 317-31-010 Purpose.** This chapter implements the cargo and passenger vessel screening and boarding program under RCW 88.46.050 to:

- (1) Protect the state's natural resources;
- (2) Provide for safe marine transportation in state waters; and
- (3) Determine whether cargo and passenger vessels entering or operating in state waters pose a substantial risk of harm to the public health and safety and to the environment.

### NEW SECTION

**WAC 317-31-020 Application.** Owners and operators of cargo and passenger vessels entering or operating in state waters shall comply with the provisions of this chapter.

### NEW SECTION

**WAC 317-31-030 Definitions.** Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter.

(1) "Boarding checklist" means a checklist used by vessel inspectors from the office as a guideline to determine the risk a vessel poses to the public health and safety and the environment.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred gross tons or more, including but not limited to, fishing vessels and freighters.

(3) "Event" means a:

(a) Collision, allision or grounding;

(b) Near-miss incident in which a pilot, master, or other person in charge of navigating a vessel successfully takes action of a nonroutine nature to avoid a collision with another ship, structure, or aid to navigation, or grounding of the vessel, or damage to the environment;

(d) Marine casualties described in 46 C.F.R. sec. 4.05-1, except subsections (a)(5), (a)(6) and (b), regardless of vessel type, or nation of registry;

(e) Disabled vessel due to an accidental or intentional grounding, failure of the propulsion or primary steering systems, failure of a component or control system that reduces the vessel's maneuverability, or fire, flood, or other incident that affects the vessel's seaworthiness or fitness for service; or

(f) Spills of oil into state waters.

(4) "Fishing vessel" means a vessel engaged in the commercial catching, harvesting or processing of fish, or in tendering to or from vessels that catch, harvest or process fish.

(5) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(6) "Potential risk" means the potential for harm to public health and welfare and the environment posed by a vessel as calculated through vessel screening.

(7) "Screening" means a process of determining a vessel's potential risk based on historical factors that are risk predictors.

(8) "State waters" means the navigable waters of the state.

(9) "Substantial risk" means a vessel falls below accepted industry standards to a degree that the vessel's continued operation seriously threatens the public health and safety and the environment.

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

## PART 1 VESSEL SCREENING

### NEW SECTION

**WAC 317-31-100 Vessel screening.** (1) The office may screen any cargo or passenger vessel, except fishing vessels, entering or operating in state waters to determine a vessel's potential risk based on vessel information collected by the office. The office may collect information from any source, including the owner and operator, other public agencies, or by inspection. A vessel's potential risk is based on vessel information relating to factors that are risk predictors and that include, but are not limited to:

- (a) Vessel age;
- (b) Vessel type;
- (c) Redundancy of mechanical, navigational, and electrical generation systems;
- (d) Country of registry (flag);
- (e) Classification society;
- (f) Owner;
- (g) Presence of a state-licensed pilot while in state waters;
- (h) Changes in ownership, country of registry, or classification society;
- (i) History of violations of international, federal, and state laws and regulations;
- (j) History of marine casualties; and
- (k) Key personnel history.

(2) The risk factors are arranged in a matrix and assigned a risk weight according to a factor's impact on safe marine transportation. The greater impact a factor has results in a higher risk weight. Risk weights are based on opinions of expert mariners experienced in marine transportation in state waters and data supplied by the office's vessel boarding program. Vessel information is evaluated through the matrix to calculate a vessel's potential risk.

### NEW SECTION

**WAC 317-31-110 Advance notice of entry.** (1) A cargo or passenger vessel owner or operator shall submit a notice of entry to the office by telefax or telephone at least twenty-four hours before the vessel enters state waters. An owner or operator of a vessel in intrastate operation is exempt from this provision if in compliance with WAC 317-31-120.

(2) The advance notice of entry must provide:

- (a) The vessel's name, country of registry, gross tonnage, call sign, and official number of the vessel;
- (b) The name and telephone number of the vessel's local representative or agent;
- (c) The estimated date, time, and point of entry into state waters by the vessel;
- (d) Intended berths or anchorages in Washington;
- (e) Last and next port of call;
- (f) The amount and type of bunkers, if any, that will be transferred;
- (g) The type of cargo, if any, that will be transferred;
- (h) A safety report if required under WAC 317-31-130; and

(i) Identification of the contingency plan covering the vessel under Washington law and chapter 317-10 WAC.

(3) In addition to providing the information in subsection (2) of this section, an owner or operator of a cargo or passenger vessel carrying dangerous cargo in bulk, defined in 33 C.F.R. section 160.203, shall submit with its notice of entry the following information:

- (a) The name and quantity of the dangerous cargo carried in bulk;
- (b) The location of the vessel at the time the report is submitted; and
- (c) The stowage location of the dangerous cargo.

(4) If an owner or operator is unable to provide notice at least twenty-four hours prior to arrival as required by subsection (1) of this section, the owner or operator shall give notice to the office as soon as practicable and shall include an explanation for the delay in notifying the office.

(5) Vessels that submit an advance notice of arrival containing all the information required under subsections (2) and (3) of this section to the U.S. Coast Guard, directly or through the Canada/United States Cooperative Vessel Traffic Service (CVTS), need not provide the notice to the office otherwise required by subsection (1) of this section. However, safety reports required by WAC 317-31-130 or 317-31-140 must be submitted to the office.

### NEW SECTION

**WAC 317-31-120 Intrastate operation.** (1) If a cargo or passenger vessel is underway more than fifty percent of the time in state waters in a calendar year, the vessel's owner or operator shall submit to the office a written schedule of the vessel's typical operations before operating the vessel in state waters.

(2) The written schedule must identify the:

- (a) Vessel's name, size (including gross tonnage, length overall, beam, and maximum anticipated draft), type, call sign, and official number;
- (b) Name, mailing address, telefax number, and telephone number for immediate contact of the owner or operator;
- (c) Vessel's maximum fuel oil capacity in barrels, average quantity of fuel oil carried, type of fuel oil carried, usual place and schedule for bunkering;
- (d) Typical routes served by the vessel;
- (e) Usual or typical schedule of the vessel; and
- (f) Cargo(s) carried and capacity.

(3) An owner or operator providing a schedule under this section is excused from notice requirements under WAC 317-31-110.

#### NEW SECTION

**WAC 317-31-130 Safety reports.** (1) The owners or operators of cargo and passenger vessels shall submit a safety report to the office that indicates the existence of any of the following vessel conditions:

(a) Any abnormality or malfunction of any steering, propulsion or safety systems, or navigation systems required by federal or international law or regulation;

(b) A breach of the hull or the integrity of a cargo or bunker tank that causes or that may reasonably be expected to cause an oil spill or loss of stability;

(c) Damage from a fire or explosion;

(d) An incomplete engineering or deck complement under United States law or regulation or under the requirements of the vessel's country of registry; or

(e) Any condition that could adversely affect the safety of a vessel, bridge, structure, shore area, or the environment.

(2) The safety report must describe the condition and state the steps taken, being taken, or planned to correct or compensate for the condition.

(3) Safety reports should be submitted to the office at least twenty-four hours before the vessel enters state waters, or immediately on request by the office.

#### NEW SECTION

**WAC 317-31-140 Safety reports after notice of entry.** If a condition described in WAC 317-31-130(1) arises after a notice of entry or notice of intrastate operation is submitted, the owner or operator shall immediately notify the office of the condition by telefax or telephone. A written safety report meeting the requirements of WAC 317-31-130 must be submitted to the office no later than forty-eight hours after notice of the condition is made.

### **PART 2 VESSEL BOARDING**

#### NEW SECTION

**WAC 317-31-200 Accepted industry standards.** Accepted industry standards are those standards established under WAC 317-31-220 and applicable requirements of the following international conventions and federal regulations:

(1) The International Convention for the Safety of Life at Sea, 1974 (SOLAS);

(2) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);

(3) The International Convention for Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);

(4) The International Labor Organization, Convention Concerning Minimum Standards in Merchant Ships, convention number 147 (ILO 147);

(5) Provisions of chapter 33 of the Code of Federal Regulations including:

(a) Part 26 (Vessel bridge-to-bridge radiotelephone regulations);

(b) Part 70 (Interference with or damage to aids to navigation);

(c) Subchapter D (International Navigation Rules);

(d) Subchapter E (Inland Navigation Rules);

(e) Part 95 (Operating a vessel while intoxicated);

(f) CFR Subchapter M (Marine Pollution Financial Responsibility and Compensation);

(g) Subchapter Q (Pollution);

(h) Subchapter P (Ports and Waterways Safety); and

(6) Provisions of chapter 46 of the Code of Federal Regulations including:

(a) Part 4 (Marine Casualties and Investigations);

(b) Subchapter B (Merchant Marine Officers and Seamen);

(c) Subchapter C (Uninspected Vessels);

(d) Subchapter D (Tank Vessels);

(e) Subchapter E (Load Lines);

(f) Subchapter F (Marine Engineering);

(g) Subchapter G (Documentation and Measurement of Vessels);

(h) Subchapter H (Passenger Vessels);

(i) Subchapter I (Cargo and Miscellaneous Vessels);

(j) Subchapter J (Electrical Engineering);

(k) Subchapter N (Dangerous Cargoes);

(l) Subchapter O (Certain Bulk Dangerous Cargoes);

(m) Subchapter Q (Equipment, Construction and Materials: Specifications and Approval);

(n) Subchapter S (Subdivision and Stability); and

(o) Part 197, subpart C (Benzene).

#### NEW SECTION

**WAC 317-31-210 Determination of substantial risk.**

(1) The office shall determine whether a vessel poses a substantial risk after boarding and inspecting the vessel during its scheduled stay in port, or upon notice of any condition on board that poses a substantial risk of harm to the public health and safety and the environment. The office shall determine substantial risk based on the condition of the vessel and crew, and the professional judgment of its inspectors.

(2) The office shall board each fishing vessel at least once every two years.

(3) Vessel inspections involve evaluation of the following:

(a) Documented compliance with applicable federal laws and regulations, and international maritime conventions;

(b) Vessel crewing and personnel policies and practices that ensure compliance with the vessel's Safe Manning Certificate or Certificate of Inspection, and that address language capabilities, work hours, health, and training;

(c) Safety and environmental management policies and practices that address vessel and personnel safety, pollution prevention, management oversight, preventive maintenance, and inspections and surveys;

(d) Vessel operating policies and practices for bridge operations and navigation, ground tackle procedures, emergency preparedness;

(e) Engineering policies and practices for maintaining machinery, organization, and operating procedures; and



(f) Condition of engineering and deck spaces including safety and lifesaving equipment.

(4) Vessel inspectors use a boarding checklist that incorporates accepted industry standards to gather information to guide vessel inspectors in making determinations of substantial risk. Vessel owners and operators may receive a copy of a boarding checklist prior to their vessel entering state waters by submitting a request by mail or telefax to the following address:

Washington State Office of Marine Safety  
PO Box 42407  
Olympia, Washington 98504-2407  
USA  
Telefax: 1-800-664-9184

#### NEW SECTION

**WAC 317-31-220 Modification of accepted industry standards.** (1) This section establishes a process for modifying accepted industry standards as established by the advisory group on cargo and passenger vessel substantial risk criteria and noticed in the *Washington State Register*, No. . . . The purpose of this section is to establish a process that results in enforceable standards while affording vessel owners and operators substantial input and notice.

(2) The vessel inspection advisory council is hereby established. The council's mission is to make recommendations to the office every two years, if necessary, concerning accepted industry standards for cargo and passenger vessels. The office shall review the council's recommendations and publish in the state register proposed standards. After the date of publication, the office shall allow thirty days for public comment. After consideration of council recommendations and public comment, the office shall adopt the proposed industry standards by publication of a notice of adoption and availability of the standards in the state register.

(3) Council members and their replacements shall be appointed by the office and serve a term of two years. The council chair shall be appointed by the office. Each council member may designate one alternate who may exercise that member's vote. The office shall invite the U.S. Coast Guard to participate as a nonvoting advisor to the council. The council shall comprise at least twelve members who represent the following interests:

- (a) Classification societies;
- (b) Commercial fishing vessels;
- (c) Environmental organizations;
- (d) Maritime labor organizations;
- (e) Maritime trade associations;
- (f) Oregon state department of environmental quality;
- (g) Native American tribes;
- (h) Vessel owners;
- (i) Vessel operators;
- (j) Washington state department of ecology;
- (k) Washington state office of marine safety;
- (l) Washington state pilots;
- (m) Oregon state pilots;
- (n) Washington state public ports;
- (o) Public agencies responsible for regulating natural resources;
- (p) Marine education and training; and

(q) The public at large.

(4) A meeting of the council may be held fourteen days after the notice of the meeting is published in the state register. The meeting notice shall state the date, time, and place of the meeting, and the names of the organizations represented. Meetings of the council may be convened either by the office or the council's chair. At the first meeting of the council, the office shall present a compilation of boarding results under the boarding checklist for the council's review.

(5) The office shall provide staff and administrative support for the council. The office shall also maintain minutes, public comments, boarding results, and other council records in a file available to the public.

#### NEW SECTION

**WAC 317-31-230 Modification of accepted industry standards for fishing vessels.** (1) This provision establishes a process for establishing and modifying accepted industry standards for fishing vessels. The purpose of this section is to establish a process that results in enforceable standards while affording vessels owners and operators substantial input and notice.

(2) The fishing vessel inspection advisory council is hereby established. The council's mission is to make recommendations to the office every two years, if necessary, concerning accepted industry standards for fishing vessels. The office shall review the council's recommendations and publish in the state register proposed standards. After the date of publication, the office shall allow thirty days for public comment. After consideration of council recommendations and public comment, the office shall adopt the proposed industry standards by publication of a notice of adoption and availability of the standards in the state register.

(3) Council members and their replacements shall be appointed by the office and serve a term of two years. The council chair shall be appointed by the office. Each council member may designate one alternate who may exercise that member's vote. The office shall invite the U.S. Coast Guard to participate as a nonvoting advisor to the council. The council shall comprise at least six members who represent the following interests:

- (a) Commercial fishing vessels;
- (b) Commercial fish processing vessels;
- (c) Environmental organizations;
- (d) Maritime labor organizations;
- (e) Native American tribes;
- (f) Washington state department of ecology;
- (g) Washington state office of marine safety; and
- (h) The public at large.

(4) A meeting of the council may be held fourteen days after the notice of the meeting is published in the state register. The meeting notice shall state the date, time, and place of the meeting, and the names of the organizations represented. Meetings of the council may be convened either by the office or the council's chair. At the first meeting of the council, the office shall present a compilation of boarding results under the boarding checklist for the council's review.

(5) The office shall provide staff and administrative support for the council. The office shall also maintain council minutes, public comment, boarding results, and other council records in a file available to the public.

(6) Until the council has established accepted industry standards under this section, the office shall use an interim standard to determine substantial risk for fishing vessels under WAC 317-31-210. The office will board fishing vessels as provided in WAC 317-31-210(2) using a boarding checklist developed through agreement with a representative of the fishing industry as published in the *Washington State Register*, No. . . .

#### NEW SECTION

**WAC 317-31-240 Event reports.** (1) The owner or operator of a cargo, passenger, or fishing vessel that experiences an event in state waters shall submit a report to the office immediately on request or, if not requested, no later than thirty days after the date of the event. Each report must contain:

- (a) The date, time, and location of the event;
- (b) The weather conditions at the time of the event;
- (c) The vessel operations underway at the time;
- (d) The identity of any facilities or other vessels involved, or both;
- (e) The type and amount of any oil spilled, and the estimated amount recovered;
- (f) A list of any government agencies to which the event was reported;
- (g) A brief analysis of any known causes and contributing factors; and
- (h) A description of measures taken to prevent a reoccurrence of the event including changes to operating or maintenance procedures, personnel policies, vessel crew and organization, and the vessel's technology.

(2) A copy of the report submitted to the U.S. Coast Guard under 46 CFR subpart 4.05 will satisfy the requirements of subsection (1) of this section if subsection (1)(a) through (h) of this section are addressed.

(3) The office may investigate reported events for the purpose of identifying policies, procedures, or practices that may pose a substantial risk.

#### NEW SECTION

**WAC 317-31-250 Inspections.** (1) Vessel inspectors may board and inspect a cargo or passenger vessel during the vessel's scheduled stay in port that poses a high potential risk under WAC 317-31-100. Vessel inspectors may also board and inspect cargo or passenger vessels the office has reason to believe may pose a substantial risk, or if the office does not have sufficient information to determine potential risk under WAC 317-31-100. The owner or operator shall make the vessel available for inspection on request by the office.

(2) The office may seek more information concerning the vessel from the U.S. Coast Guard or the owner or operator of the vessel, prior to or in lieu of performing an inspection of the vessel.

(3) Any violations of federal or international rules observed will be reported to the U.S. Coast Guard. Inspec-

tions will be coordinated with the U.S. Coast Guard to avoid duplication.

### PART 3 ENFORCEMENT

#### NEW SECTION

**WAC 317-31-300 Vessels posing a substantial risk.** If the office determines that a cargo or passenger vessel poses a substantial risk, the office may:

- (1) Request that the U.S. Coast Guard deny entry; or
- (2) Issue an order allowing the vessel to enter or operate in state waters subject to conditions the office determines necessary to minimize the risk the vessel poses. The conditions may include:
  - (a) Submission of specified information or written material about the vessel and its operations;
  - (b) Tug or spill response vessel escorts;
  - (c) The addition of officers, crew, or licensed pilots;
  - (d) Restricting the vessel's route, or area of operation;
  - (e) Restricting operations in adverse weather, tidal, or current conditions;
  - (f) Restricting bunkering or cargo transfer operations;
  - (g) Placing navigation, communications, or other special equipment on board; and
  - (h) Other conditions, restrictions, or requirements deemed appropriate under the circumstances.

#### NEW SECTION

**WAC 317-31-310 Penalties.** A person who violates the provisions of this chapter or orders issued under this chapter, is subject to civil and criminal penalties and procedures under RCW 88.46.080 and 88.46.09.

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

#### NEW SECTION

**WAC 317-31-900 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

**WSR 96-03-075**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER'S OFFICE**  
[Filed January 17, 1996, 2:51 p.m.]

Continuance of WSR 96-03-033.

Preproposal statement of inquiry was filed as WSR 95-16-128.

Title of Rule: Recognizing conscientious objection to basic health services and ensuring access to all enrollees.

Other Identifying Information: Insurance Commissioner Matter No. R 95-9.

Summary: Continuation of adoption date.

Date of Intended Adoption: February 6, 1996.

January 17, 1996  
Deborah Senn  
Insurance Commissioner

**WSR 96-03-076**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed January 17, 1996, 4:00 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-20-068; and is exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 230-20-325 Manner of conducting a raffle, 230-20-335 Members only raffle—Procedures—Restrictions, 230-25-040 Fund-raising event—House rules to be developed and posted—Limitations on wagers, and 230-25-220 Raffles or similar drawings conducted at fund-raising events.

Purpose: To amend rules relating to the conduct of raffles. RCW 9.46.0277 was amended by the 1995 legislature to authorize raffle tickets to be sold for up to \$25, rather than the previous limit of \$5.

Statutory Authority for Adoption: RCW 9.46.0277, 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: Statutory change in RCW 9.46.0277.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington State Gambling Commission, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Statutory change in RCW 9.46.0277 will increase revenues generated by raffles.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 4, 1996.

Date of Intended Adoption: March 15, 1996.

January 17, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 95-07-093, filed 3/17/95, effective 7/1/95)

**WAC 230-20-325 Manner of conducting a raffle.**

All raffles shall be conducted by selling individual chances for not more than twenty-five dollars and awarding prizes by selecting winners by a random drawing from among all chances sold. The following operating procedures apply:

(1) All raffle chances shall be consecutively numbered tickets or other objects imprinted with letters or symbols that are not repeated within the population of all chances sold for a specific raffle;

(2) Raffle chances sold to the general public or for raffles that do not require the winner to be present at the drawing shall consist of a ticket that includes a stub or other detachable section bearing a duplicate number, letter, or symbol corresponding to the number, letter, or symbol on the ticket or object representing the player's chance. The portion retained by the ~~((seller))~~ raffle operator shall include the participant's name, complete address, telephone number, and/or other information necessary to notify the winner;

(3) All participants in a raffle must be informed of all rules by which such prizes may be won at the time of sale of a chance. This information shall be provided by either imprinting such on the participant's portion of the ticket or otherwise providing such to each participant in writing. The following information shall be provided to each participant:

- (a) The cost of each chance;
- (b) All prizes available, whether cash or merchandise;
- (c) Date and time of drawing;
- (d) Location of drawing;
- (e) Whether an entrant is required to be present at a raffle drawing in order to be eligible to win a prize; and
- (f) Name of organization conducting raffle.

(4) No person shall be required to pay, directly or indirectly, more than twenty-five dollars in order to enter any raffle;

(5) Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle;

(6) No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets: *Provided*, That noncash incentive awards may be provided to members selling tickets if:

(a) Individual awards do not exceed a fair market value of ten dollars;

(b) The awards are based on the number of chances sold; and

(c) The fair market value of the total amount awarded for an individual raffle does not exceed two percent of the gross gambling receipts of the raffle.

(7) No person shall be required to obtain more than one chance to enter a raffle;

(8) Each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle ~~((out of))~~ from which the winning tickets are to be drawn;

(9) The ticket collection receptacle shall be designed so that each ticket ~~((placed therein))~~ has an equal opportunity ~~((with every other ticket to be the one withdrawn))~~ to be

PROPOSED

drawn: *Provided*, That an alternative drawing format to determine the winner may be utilized if such format is approved by the director before tickets are sold and the following requirements are complied with:

- (a) The organization must have a current raffle license;
- (b) The alternate format must meet the definition of a drawing as defined by WAC 230-02-500;
- (c) The random selection process used in the alternative format shall be fully disclosed to each player prior to selling a ticket;
- (d) Any alternate format utilized to determine the winners must be closely controlled by the licensee; and
- (e) ~~((Each separate alternative format scheme shall be approved by the director in writing prior to a ticket being sold to participate in a raffle using such a scheme to determine winners.))~~ The written request to utilize an alternative drawing format shall contain, at a minimum, the following information:
  - (i) The time, date and location of the drawing;
  - (ii) The type of random selection process to be used and complete details of its operation;
  - (iii) The name and telephone number of the raffles manager; and
  - (iv) The signature of the organization's chief executive officer;
- (10) The raffle license issued by the commission or a ~~((photostatic))~~ copy of the license shall be ~~((conspicuously))~~ posted ~~((and displayed))~~ in plain view at the location at all times during the occasion when a drawing is being conducted.

**AMENDATORY SECTION** (Amending WSR 95-07-093, filed 3/17/95, effective 7/1/95)

**WAC 230-20-335** ~~((Raffles conducted among members of an organization))~~ **Members-only raffles—Procedures—Restrictions.** Organizations may conduct members-only raffles utilizing simplified procedures. For purposes of this section, "members-only raffle" means a raffle conducted by selling chances only to members of the organization and a limited number of guests, and determining the winners from among those members and guests that have purchased chances. The following procedures and restrictions supplement or modify WAC 230-08-070 and 230-20-325 and apply only to members-only raffles:

- (1) In order to conduct raffles utilizing these simplified procedures, all phases of the raffle must be completed during a meeting of the members, and the meeting must be completed on the same day and at the same location without interruption;
- (2) If guests are allowed to participate, the total number of guests, as a percentage of the total attendance of the meeting, shall not exceed twenty-five percent. Records shall be maintained that will allow commission staff to determine compliance with this requirement;
- (3) All disclosures required to be imprinted on a raffle ticket or chance may be provided to participants by posting a sign at each ticket sales point;
- (4) Chances to enter a raffle may be included as a part of a package that includes dues, entertainment, or other fundraising activities if the value of each component of the package is disclosed to the purchaser and the value of each

individual raffle chance does not exceed twenty-five dollars: *Provided*, That initial applications for membership and any fees paid for such shall not include chances to enter raffles or to participate in any gambling activities;

- (5) The director may authorize an organization to deviate from the "same price" requirements of WAC 230-20-325(5). Chances to enter a raffle may be sold for different values, ranging from one cent to a maximum of twenty-five dollars, if the following conditions are met:
  - (a) The scheme for assigning the cost of the ticket must be disclosed to the player ~~((prior to))~~ before selling them a chance to participate. This disclosure shall include the total number of tickets in the population and the number of tickets at each price level;
  - (b) Participants must be allowed to randomly select their ticket from the population of remaining tickets. Participants pay the amount imprinted upon the ticket they select;
  - (c) The scheme provides an adequate audit trail that will allow commission staff and taxing authorities to determine gross gambling receipts;
  - (d) The total gross gambling receipts available from raffles utilizing such schemes are limited to one thousand three hundred dollars each drawing;
  - (e) No more than two such drawings are conducted during a meeting of the members; and
  - (f) Approval must be obtained in writing from the director. Such approval shall be valid until revoked by commission staff;
- (6) The following sales schemes may be used for members-only raffles:
  - (a) Multiple tickets to enter one or more drawings may be sold as a package as long as the total price of the package does not exceed twenty-five dollars; and
  - (b) Alternative sales methods may be used if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request;
- (7) Alternative drawing formats approved for members-only raffles shall be valid until revoked by the commission staff, if all the information required by this subsection is reported to the commission at least ten days ~~((prior to))~~ before any drawing using such schemes. Notification for members-only raffles may be signed by the designated raffle manager;
- (8) The limitations on noncash incentive awards for an individual raffle, set forth in WAC 230-20-325 (6)(a) and (c), are modified to allow awards that do not exceed five percent of the combined gross gambling receipts for all raffles conducted during a membership meeting if a record of the name, address, and telephone number is maintained for all persons receiving awards valued in excess of fifty dollars;
- (9) Raffle records, as required by WAC 230-08-070, are modified as follows:
  - (a) The threshold value for maintaining a record of the name, address, and telephone number of each winner of a prize is increased to include only prizes valued in excess of fifty dollars;
  - (b) Ticket disbursement records are not required; and
  - (c) Minimum record retention period is reduced to a period that is not less than one year following the date of each individual raffle drawing.

AMENDATORY SECTION (Amending Order 111, filed 9/15/81)

**WAC 230-25-040 Fund-raising event—House rules to be developed and posted—Limitations on wagers.** ~~(Prior to)~~ Before conducting a fund-raising event, each licensee shall develop a set of house rules which will govern the type, scope and manner of all gambling activities to be conducted in conjunction with the fund-raising event. Among other information, these rules shall establish the maximum amount of wagers ~~(which)~~ that may be placed by persons participating in gambling activities ~~(which)~~ that in any event shall not exceed ten dollars being wagered upon the outcome of any one operation of an element of chance, except for raffles or other similar drawings, as set forth in RCW 9.46.0277.

In addition, the rules shall prohibit the giving of any thing of value to any person involved in the management or operation of the fund-raising event, and prohibit any person involved in the management or operation of the fund-raising event from accepting any thing of value.

A copy of the rules shall be posted conspicuously on the premises where the fund-raising event is being conducted at all times during the fund-raising event, and a copy thereof shall be made available, upon request, to any law enforcement officer or representative of the commission.

AMENDATORY SECTION (Amending Order 153, filed 8/12/85)

**WAC 230-25-220 Raffles or similar ~~(lotteries)~~ drawings conducted at fund-raising events.** Raffles or similar drawings may be conducted at fund-raising events so long as they meet the following requirements:

(1) No sales of tickets or drawing(s) in any raffle or similar ~~(lottery)~~ drawing wherein the winner or winners are chosen by the drawing of a ticket or other card or device shall be done at, or in connection with, a licensed fund-raising event unless all aspects of the raffle or similar ~~(lottery)~~ drawing are done only at the fund-raising event.

(2) If any ticket ~~(or)~~ card or other device for a raffle or similar ~~(lottery)~~ drawing is sold, or any drawing for a raffle or similar ~~(lottery)~~ drawing held, other than at and during a licensed fund-raising event, then no portion of the raffle or similar ~~(lottery)~~ drawing shall be conducted at or during any licensed fund-raising event, nor shall the raffle or similar ~~(lottery)~~ drawing be considered as being held under the fund-raising event license for any such fund-raising event.

(3) Raffles or other similar ~~(lotteries)~~ drawings wherein the winner or winners are chosen by the drawing of a ticket or other card or device conducted at, or as a part of, a licensed fund-raising event authorized ~~(under RCW 9.46.030(1))~~ by RCW 9.46.0311 shall be treated as conducted ~~(solely pursuant to)~~ under the license to conduct that fund-raising event. All income, prizes awarded, and other expenses shall be accounted for, and reported to the commission, as required for fund-raising events ~~(and)~~ but shall not be reported, or accounted for, as required for raffles conducted under a raffle license issued by the commission, or under ~~(a)~~ different statutory authority: *Provided*, That the requirements of WAC 230-20-325 applicable to raffles shall be applicable to all such ~~(lotteries)~~ drawings conducted at

a fund-raising event, except that single chances on ~~(lotteries)~~ drawings may be sold for up to ~~((\$10))~~ twenty-five dollars per chance.

(4) Income from raffles or other ~~(lotteries)~~ drawings conducted at, or as a part of, such a fund-raising event shall be applied only against the maximum income permitted for fund-raising events and shall not be applied against other maximum income limits imposed by chapter 9.46 RCW or the commission's rules.

~~((4))~~ (5) All of the commission's rules applicable to the conduct of raffles, whether general or specific, shall apply to the conduct of raffles and to the conduct of other similar ~~(lotteries)~~ drawings wherein the winner or winners are chosen by the drawing of a ticket or similar card or device at, or as a part of, a fund-raising event, except as provided in subsection (3) ~~(above)~~ of this section and except the following rules which shall not be applicable:

- (a) WAC 230-08-070;
- (b) WAC 230-20-350;
- (c) WAC 230-12-020.

~~((5))~~ (6) Subsections (1) through ~~((4) above)~~ (5) of this section shall not ~~(be applicable where)~~ apply to a drawing ~~(is)~~ held during a fund-raising event ~~(for a)~~ if the raffle is conducted ~~(pursuant to)~~ under a raffle license issued by the commission ~~(subject to all the commission's rules applicable to such raffles)~~, and all tickets for ~~(said)~~ the raffle are sold ~~(or)~~ and deposited into the drawing container ~~(prior to)~~ before the beginning of the fund-raising event.

**WSR 96-03-077**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed January 17, 1996, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-028.

Title of Rule: Rules package to streamline qualification review procedures and requirements.

Purpose: To streamline license qualification review procedures and clarify qualification requirements; to more specifically define certain allowable expenses; and to reduce reporting requirements for certain classes of charitable/nonprofit licensees.

Other Identifying Information: WAC 230-02-162, 230-02-278, 230-02-279, 230-02-137, 230-04-024, 230-04-040, 230-04-064, 230-08-095, 230-08-122, 230-08-255, 230-12-076, and 230-20-064.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8)-(11), (14), (16), (20).

Summary: Amending WAC 230-02-278 Program service ~~(s)~~ expenses defined, further clarifies the type of expenditures undertaken by charitable and nonprofit organizations in furtherance of the organization's stated purposes; WAC 230-04-024 Bona fide charitable or nonprofit organizations—Minimum qualifications—Restrictions—Definitions, amendments clarify the requirements organizations must meet to qualify as nonprofit or charitable organizations for purposes of conducting gambling in Washington. Amendments are a part of staff's efforts to further refine and

streamline the qualification review processes; WAC 230-04-040 Certification procedure—Charitable and nonprofit organizations—Additional information required, amendments clarify the additional certification requirements that larger volume licensees must meet. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes; WAC 230-04-064 Certification procedure—All licenses—Formal commission approval, amendments clarify the intent and application of the commission's certification procedures as they relate to charitable and nonprofit organizations. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes; WAC 230-08-095 Minimum standards for monthly and annual accounting records—Charitable or nonprofit organizations, amendment moves a record-keeping requirement to a more appropriate rule section. This is not a new requirement, but is part of staff's efforts to further refine and streamline the qualification review processes; WAC 230-08-122 Annual ((certification)) progress and financial report—All nonprofit and charitable organizations, amendments clarify the information required to be reported annually in order to measure progress toward accomplishing stated purposes. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes; WAC 230-08-255 Bona fide charitable or nonprofit organizations—Records required to show significant process((—Group II and Group III licenses)) amendments clarify the language of the rule and specify additional requirements that larger volume licensees must meet when showing progress to accomplishing its stated purposes. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes; and WAC 230-20-064 Maximum receipts, prizes and expenses for bingo games—Net income required, amendments include housekeeping changes and clarifications regarding calculation of net income for purposes of meeting net income requirements. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes. If these amendments are adopted, they will be effective July 1, 1996, the same date as the proposed amendments to this rule regarding the moratorium on issuing mandatory downgrades presented.

New sections WAC 230-02-137 Excessive reserves defined, further clarifies the type of expenditures undertaken by charitable and nonprofit organizations in furtherance of the stated purposes. The definition of "excessive reserves" was a subsection of another rule and was moved to the definition section; WAC 230-02-162 Functional expenses defined, further clarifies the type of expenditures undertaken by charitable and nonprofit organizations in furtherance of the organization's stated purposes; WAC 230-02-279 Supporting service expenses defined, further clarifies the type of expenditures undertaken by charitable and nonprofit organizations in furtherance of the organization's stated purposes; and WAC 230-12-076 Regulation of charitable and nonprofit organizations—Assignment to regulatory groups, new section places charitable and nonprofit licensees in regulatory groups. The groupings will allow the commission to more appropriately regulate gambling activities according to the scope of a licensee's combined gambling activities. These amendments are a part of staff's efforts to further refine and streamline the qualification review processes.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington State Gambling Commission, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes are anticipated to reduce costs to charitable and nonprofit licensees when undergoing qualification reviews.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 4, 1996.

Date of Intended Adoption: March 15, 1996.

January 17, 1996

Michael R. Aoki-Kramer  
Rules and Policy Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

**WSR 96-03-078**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed January 17, 1996, 4:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-089; and is exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 230-50-560 Petition for review of an initial order replies to a petition for review, and cross appeals—Time limits and content requirements and 230-50-562 Final orders—When an initial order becomes a final order—When and how to file ...

Purpose: To establish a time limit for filing cross appeals; extend time for replying to a petition for review from ten to thirty days; to create a separate subsection for final orders.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 9.46.140, 9.46.070.

Summary: See Purpose above.

**Reasons Supporting Proposal:** To make time for responding to a petition for review more reasonable in light of the length of time it takes for a hearing to be transcribed; information regarding the effect of final orders and how to appeal them should be set forth as a separate rule.

**Name of Agency Personnel Responsible for Drafting:** Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310;  
**Implementation and Enforcement:** Attorney General, Olympia, (360) 753-2693.

**Name of Proponent:** Gambling Commission and Attorney General's Office, governmental.

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

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

**Proposal Changes the Following Existing Rules:** See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No substantive changes in the way administrative cases are prosecuted other than to ease or establish time lines. No monetary impact on licensees.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

**Hearing Location:** March meeting: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

**Submit Written Comments to:** Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8654 [438-8652], by March 4, 1996.

**Date of Intended Adoption:** March 15, 1996.

January 17, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

**AMENDATORY SECTION** [(Amending WSR 90-13-022, filed 6/11/90)]

**WAC 230-50-560** ~~((Adjudicated proceedings—))~~  
**Petition for review of an initial order** ~~((—)),~~ **replies to a petition for review, and cross appeals** ~~—((Reconsideration—Final orders))~~ **Time limits and content requirements.** Any party to an adjudicative proceeding may file a petition for review of an initial order.

(1) The petition for review shall be filed with the commission within twenty days of the date of service of the initial order unless a different place and time limit for filing the petition are specified in the initial order in its statement describing available procedures for administrative relief. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(2) The petition for review shall specify the portions of the initial order to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition.

(3) Any party may file a reply to a petition for review. The reply shall be filed with the office where the petition for

review was filed within ~~((ten))~~ **thirty** days of the date of service of the petition and copies of the reply shall be served upon all other parties or their representatives at the time the reply is filed.

(4) **Cross appeals must be filed within ten days of the date of service of the petition for review of the initial order.**

(5) At least a majority of the commission members shall review the petition within 120 days after the petition was filed and render a final order in accordance with WAC 10-08-210.

~~((5) A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the commission in accordance with WAC 230-50-210 within ten days of the service of the final order. Such petition shall be administered in accordance with RCW 34.05.470.~~

~~((6) An initial order issued by an administrative law judge or the commission shall become the final order in the proceedings unless a petition for reconsideration is filed in accordance with the requirements of this rule.))~~

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

### NEW SECTION

**WAC 230-50-562 Final orders—When an initial order becomes a final order—When and how to file a petition for reconsideration of a final order.** An initial order issued by an administrative law judge or the commission shall become the final order in the proceedings unless a petition for reconsideration is filed in accordance with this rule.

(1) Any party to an adjudicative proceeding may file a petition for reconsideration of a final order.

(2) A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the commission in accordance with WAC 230-50-210 within ten days of the service of a final order. The petition for reconsideration shall be administered in accordance with RCW 34.05.470.

**WSR 96-03-079**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed January 17, 1996, 4:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-027.

**Title of Rule:** Rules authorizing the sale of gift certificates for use in bingo halls from locations outside of Washington state.

**Purpose:** To authorize charitable and nonprofit organizations to sell gift certificates and to provide transportation once a week to their location from points outside Washington state.

**Other Identifying Information:** WAC 230-20-050, 230-20-052, 230-20-103, 230-20-115, and 230-20-230.

**Statutory Authority for Adoption:** RCW 9.46.070 (1), (8)-(11), (14), (16), (20).

**Summary:** Amending WAC 230-20-050 Use of proceeds, amendment states use of proceeds to provide transportation to bingo games will be deemed an appropriate

use of charitable/nonprofit organizational funds; WAC 230-20-103 Bingo cards to be sold upon the premises—Exceptions, repeal the limit on the number of times a licensee may sell entry guarantees to bingo sessions. Authorized the sale of gift certificates as an exception to the requirement that bingo cards must be sold upon the premises; WAC 230-20-230 Free games for winners (~~(prohibited)~~)—Restrictions, new rule sets forth requirements and limitations for awarding free bingo games.

New sections WAC 230-20-052 Transportation of bingo players, new rule authorizes bingo licensees to offer transportation to bingo games once a week from locations outside Washington state and specifies that costs associated with providing transportation will be treated as a bingo activity expense; and WAC 230-20-115 Gift certificates—Requirements, new rule sets forth requirements for selling and recording income from gift certificates.

Reasons Supporting Proposal: Licensee request that can be accommodated within the Gambling Commission's statutory mandates.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington Charitable and Civic Gaming Association, private.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Licensee requested rules are anticipated to increase revenue.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency did not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 4, 1996.

Date of Intended Adoption: March 15, 1996.

January 17, 1996

Michael R. Aoki-Kramer  
Rules and Policy Coordinator

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

**WAC 230-20-050 Use of proceeds.** No part of the proceeds of any bingo game, raffle, or amusement game conducted by a bona fide charitable or bona fide nonprofit organization, except qualified agricultural fairs, shall be used for the benefit of any person other than the organization conducting the activity; except that if the activity is conduct-

ed by a licensee for the charitable benefit of a specific person or persons who have been listed as recipients of the proceeds, or a specified portion thereof, on the application for a license to conduct the activity, then the proceeds or specified portion thereof, may be used for the benefit of such specific person or persons so designated if commission approval has been obtained prior to the organization conducting the activity for that purpose. Provided, for the purposes of this section, a licensee providing transportation to bingo players under the guidelines of WAC 230-20-052 shall not be deemed in violation of this rule.

NEW SECTION

**WAC 230-20-052 Transportation provided to bingo players.** Licensed bingo operators may provide transportation to players on one occasion per week from locations outside Washington State boundaries for the purpose of allowing players to attend and participate in Washington State bingo operations. Costs associated with transporting players will be treated as a bingo activity expense.

AMENDATORY SECTION (Amending Order 253 [254], filed 7/20/94, effective 8/20/94)

**WAC 230-20-103 Bingo cards to be sold upon the premises—Exceptions.** Bingo cards shall be sold upon the licensed premises during or immediately preceding the session for which the cards are intended for play: *Provided*, That licensees may sell an entry guarantee to persons desiring to reserve the right to participate in special bingo games. Such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

~~(1) ((Entry guarantee events are limited to four sessions each calendar year. *Provided*, That each separate event shall be completed in its entirety, including all refunds authorized by subsection (9) of this section, prior to beginning sales for another event;~~

(2)) Tickets shall not be sold prior to sixty days in advance of the event;

~~((3))~~ (2) Tickets must be used to document the sale of an entry guarantee. The following procedures and requirements apply to tickets used to document sale of entry guarantees:

(a) All requirements of WAC 230-20-101 (2)(a), (b), (c), and (d) shall be followed; and

(b) The following information must be imprinted on the tickets:

(i) The name of the organization sponsoring the event;  
(ii) The time, date, and location of the event;  
(iii) The total number of tickets available for the event;  
(iv) The value of the ticket; and  
(v) Any conditions or contingencies related to redemption of the ticket, refunds, or cancellation of the event;

~~((4))~~ (3) The licensee shall record the name, mailing address, and phone number of each person purchasing an entry guarantee;

~~((5))~~ (4) The number of tickets sold shall not exceed the seating capacity of the premises;

~~((6))~~ (5) The value of an entry guarantee ticket shall not exceed fifty percent of the minimum "buy-in" for the event;



~~((7))~~ (6) Entry guarantee tickets shall be controlled as follows:

(a) All unaccounted for tickets shall be treated as a cash shortage at the redemption value;

(b) A record shall be maintained of all ticket disbursements;

(c) Tickets shall only be redeemed for bingo cards upon the licensed premises during the session noted on the ticket;

(d) Tickets redeemed for bingo cards shall be immediately cancelled by use of a hand stamp that imprints "REDEEMED" on each ticket;

(e) Tickets redeemed shall be treated as gross gambling receipts for bingo at the session they are redeemed, and the daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of tickets redeemed; and

(f) Gross receipts from the sale of tickets shall be deposited separately into the gambling account no later than two banking days after receipt. The ticket numbers relating to the funds deposited shall be a part of the deposit record;

~~((8))~~ (7) An event may be cancelled any time prior to the start of the scheduled bingo session. When an event is cancelled, the following procedures must be followed:

(a) The entire purchase price of the tickets must be refunded to the customer;

(b) All refunds must be made by check payable to the ticket purchaser. The ticket number must be recorded on the check; and

(c) The check must be mailed to the customer no later than three days following cancellation of the event;

~~((9))~~ (8) Licensees must refund the entire purchase price to a customer requesting such prior to the start of the scheduled bingo session. The following procedures and restrictions apply to refunds:

(a) Refunds must be made no later than thirty days following the event. After thirty days, all unredeemed tickets shall be considered void and recorded as contributions to the organization;

(b) All refunds must be made by check payable to the ticket purchaser. The ticket number must be recorded on the check;

(c) The person receiving the refund shall sign the back of the ticket; and

(d) All refunded tickets shall be retained as a part of the records for the event.

(9) Bingo licensees may sell gift certificates to persons desiring to give them to a potential player for use at a future date. The requirements set forth in WAC 230-20-115 apply when selling gift certificates.

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

## NEW SECTION

### **WAC 230-20-115 Gift certificates—requirements.**

Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) If sold, gift certificates shall be paid for in full at the time they are issued;

(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;

(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;

(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be pre-numbered, consecutively issued, and have a predetermined value with the following information imprinted:

(a) The name of the organization issuing the certificate;

(b) The date issued and an expiration date not later than three months from the date issued for awarded certificates; and one year for sold certificates;

(c) The dollar value of the certificate; and

(d) any conditions or contingencies related to redemption of the certificate.

(5) If given as a prize, the value of the certificate shall be no more than forty dollars (\$40) U.S. currency;

(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punchboards or pull tabs upon the licensed premises from which it was issued.

(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed.

(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:

(a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;

(b) Redeemed certificates will be maintained with the corresponding daily sales records;

(c) Certificates not redeemed within the expiration date shall be properly accounted for as a donation; and

(d) A certificate log will be maintained and will include the following:

(i) Certificate number;

(ii) Certificate value;

(iii) Date of issue;

(iv) Expiration date;

(v) Date of redemption; and

(vi) If awarded as a prize, the session and date the prize is awarded.

AMENDATORY SECTION (Amending Order 250, filed 3/16/94, effective 4/16/94)

**WAC 230-20-230 Free games for winners (~~prohibited~~) — Restrictions.** ~~((No))~~ On only four occasions per year, a licensee may award free cards, or any opportunity to play in a bingo game, shall be awarded or given to a person as a prize for, or conditioned upon, winning a bingo game or games(,). ~~((except))~~ *Provided*, those bingo games conducted under the authority of a Class A ~~((or))~~ B or C license ~~((issued by the commission))~~ or games conducted without a license under RCW 9.46.0321 may award free games

without restrictions on the number of occasions. The restrictions set forth in WAC 230-20-115 will apply when awarding gift certificates that may include free games for winners.

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 96-03-080**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed January 17, 1996, 4:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-088.

Title of Rule: WAC 230-02-511 Attended amusement game defined, 230-20-510 Attended amusement games—Operational restrictions, 230-20-055 Use of proceeds from authorized activities by charitable or nonprofit organizations, and 230-40-055 Card tournaments for fee and prizes—Requirements.

Purpose: Housekeeping changes.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: Housekeeping changes to clarify language and move operational restrictions from definitions to more appropriate rules.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington State Gambling Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Housekeeping changes intended to make rules easier to read and to put operational restrictions in appropriate rules.

Proposal Changes the Following Existing Rules: WAC 230-02-511, removes operational restrictions from definition of attended amusement game; WAC 230-20-055 and 230-40-055, housekeeping changes to make easier to read.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Housekeeping changes will not have a substantive effect on licensees' operations.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 4, 1996.

Date of Intended Adoption: March 15, 1996.

January 17, 1996  
 Michael Aoki-Kramer  
 Rules and Policy Coordinator

AMENDATORY SECTION [(Amending WSR 94-01-036, filed 12/6/93)]

**WAC 230-02-511 Attended amusement game defined.** Any amusement game conducted in a manner ~~((which requires))~~ requiring the presence or assistance of any natural person(;) as an attendant(;) in the regular operation of ~~((such))~~ the game(;) shall be considered an attended amusement game. ~~((Regular operation shall include, but not be limited to: The collection of a valuable consideration from the player(s), providing equipment or components to the player(s) such as to allow participation in the game, and the delivery of merchandise prizes to any player who successfully achieves the state goal of the game. Regular operation shall not include any material assistance in the play of the game or any participation in the game by the attendant. Any such game shall be conducted in accordance with all other rules of the gambling commission and provisions of chapter 9.46 RCW.))~~

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

NEW SECTION

**WAC 230-20-510 Attended amusement games — Operational restrictions.** Regular operation of attended amusement games shall include, but not be limited to the following: collection of valuable consideration from the player(s), providing equipment or components to the player(s) to allow participation in the game, and delivery of a merchandise prize(s) to any player successfully achieving the stated goal of the game. Regular operation shall not include material assistance in playing the game or participation in the game by the attendant. Any such game shall be conducted in accordance with all other rules of the gambling commission and provisions of chapter 9.46 RCW.

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

**WAC 230-20-055 Use of proceeds from authorized activities by charitable or nonprofit organizations** ~~((of proceeds from authorized activities))~~. All proceeds remaining after paying the necessary expenses of operating an activity authorized by RCW 9.46.0311 shall be used by the organization conducting the activity only for those purposes which are set out in RCW 9.46.0209 and as it may be amended and, if a commission licensee, ~~((which have been))~~ only for those purposes disclosed to the commission in the application for a license.

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

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

AMENDATORY SECTION [(Amending Order 250, filed 3/16/94)]**WAC 230-40-055 Card tournaments for fee and prizes—(~~Reporting~~) Requirements.** Public card room licensees may conduct card tournaments meeting the following requirements:

(1) The commission shall license a card tournament (~~wherein~~) in which a fee is charged to the participants and prizes are awarded to the winning players (~~shall be licensed by the commission~~), subject to the following conditions:

(a) Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: *Provided*, That Class B licensees are limited to only those card games authorized under their licens(~~ing~~)e class.

(b) Card room licensees with a Class D or R license must first obtain a card tournament license before (~~they can~~) conducting a card tournament in which the players are charged a fee to enter. The licensee shall notify the commission ten days in advance of any card tournament where the single or multiple buy-in exceeds fifty dollars.

(c) A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed fifty dollars, including all separate fees which might be paid by a player for various phases, events of the tournament, food and drink offerings, and promotional material.

(3) The fee to enter a tournament and a description of all goods and services to be provided as a part of the tournament must be fully disclosed to each entrant (~~prior to their~~) before paying (~~such~~) the entrance fee. (~~Such~~) The disclosure required by this subsection must be posted (~~conspicuously~~) in plain view on the premises at the time payment is received and remain posted until the tournament is complete. This same information must be included in all advertisements for (~~said~~) the tournament. Operators may offer "free roll" or customer appreciation tournaments: *Provided*, That the pretournament play requirements do not exceed the fifty-dollar entry fee limitation. Entrants in such tournaments must initially be provided with the same number of chips or points and the same opportunity for re-buys. All prizes awarded for free roll or customer appreciation tournaments may be deducted as prizes for determining adjusted net gambling receipts (~~for compliance with WAC 230-12-075~~).

(~~2~~) (4) All fees paid to enter a tournament shall be reported as gross gambling receipts: *Provided*, That if an operator prepares and provides food and drink items to all tournament entrants on the licensed premises as a part of their entry fee, the fair market value of the food and drink provided, not to exceed twenty-five dollars or fifty percent of the entry fee, which ever is greater, shall be treated as sales of food and drink for on premise consumption and not included as gross gambling receipts. Such sales(~~s~~) must be properly supported by records: *Provided further*, That if an operator provides items promoting the tournament or licensed business, such as hats, t-shirts, etc., to all participants as a part of their entry fee, the actual cost of such items, supported by invoices and other such records, shall be

deducted as prizes in determining adjusted net gambling receipts (~~for compliance with WAC 230-12-075~~).

(~~4~~) (5) In addition to the entry fee, a minimum buy-in of chips may be required. The total buy-in per player shall not exceed two hundred dollars per tournament and may be either a single or multiple buy-in during the course of the tournament. A record of the buy-ins for each participant (~~will~~) must be maintained by the licensee in a format provided by the commission. All buy-ins of chips are not gross gambling receipts and shall be returned to the participants in the form of prizes. Prizes from buy-ins are not deductible for commercial stimulant purposes.

(~~5~~) (6) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in subsection (2) of this section. The licensees actual cost for prizes awarded to the players may be deducted as prizes for determining adjusted net gambling receipts generated by the entry fees.

(~~6~~) (7) The licensee shall adopt tournament rules to facilitate the operation of card tournaments: *Provided*, That all tournament rules for tournaments where the single or multiple buy-in exceeds fifty dollars must be submitted to the commission for approval. All tournament rules must be posted where all tournament participants can see and read the rules.

(~~7~~) (8) The licensee shall maintain a record of all (~~such~~) fees collected and the number of participants (~~for~~) in each tournament (~~conducted~~). This information shall be entered in a format approved by the commission. The total gross gambling receipts for the tournament shall be entered on the card room daily control sheet for the time and date the tournament begins and the record of participants shall be attached and maintained with that daily control sheet.

(~~8~~) (9) The licensee shall maintain a record of all prizes awarded (~~to include~~) including the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant: *Provided*, That the name and address of each participant receiving promotional items as set forth in subsection (~~3~~) of this section) (4) shall not be required on the prize record(~~The record~~) but shall be attached to the daily control sheet used on the date the majority of the prizes are awarded.

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

**WSR 96-03-081**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed January 17, 1996, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-19-034.

Title of Rule: WAC 230-40-030 Number of tables and players limited—Exception for good cause.

Purpose: To simplify the rule relating to the number of players allowed at a card table.

Statutory Authority for Adoption: RCW 9.46.0281, 9.46.0325, 9.46.070 (1), (2), (11), (14), (20).

Summary: Existing rule authorizes between ten and fourteen players per table depending on license class, in addition to allowing more players under special circumstances. The justification for having different numbers of players allowed for different license classes is no longer apparent. Amendments allow both licensees and commission staff to more readily determine how many card players may play at a table. Amendments allow twelve players per table in licensed card rooms, regardless of license class or game, rather than ten players.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington State Gambling Commission, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amendments are anticipated to have no negative economic impacts.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn/Yakima Valley, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on March 15, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by March 12, 1996, TDD (360) 438-7638, or (360) 438-7654, ext. 310.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, FAX (360) 438-8652, by March 4, 1996.

Date of Intended Adoption: March 15, 1996.

January 17, 1996

Michael Aoki-Kramer

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 184, filed 10/24/88)

WAC 230-40-030 Number of tables and players limited—Exception for good cause. The number of tables and players allowed in card rooms are limited as follows:

(1) ~~((No licensee to allow a))~~ Licensed public card rooms ~~((on its premises shall allow))~~ may contain no more than five separate tables or the number of tables authorized under a Class E license, whichever is less, at which card games are played, ~~((not))~~ and shall not allow more than ~~((ten))~~ twelve players to ~~((participate))~~ play cards at any one table at any given time. ~~((Provided: When poker is played, additional players are authorized to participate at the card table(s) as follows;~~

~~(a) Class E 1~~ 2 players

~~(b) Class E 2 thru E 5~~  
~~and Class D~~ 4 players

~~Provided further, that no table shall have more than twelve players.))~~

(2) ~~((No licensee to allow a))~~ Licensed social card rooms ~~((on its premises shall allow))~~ may allow no more than ~~((ten))~~ twelve players to participate at any one table at any given time. ~~((Provided, when poker is played, they may have two tables with 12 players at each table.))~~

(3) The commission may permit a licensee to exceed the player limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than ~~((30))~~ thirty days ~~((preceding))~~ before the date ~~((upon which))~~ the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the ~~((number of))~~ number of games and number of players in the games ~~((which))~~ the licensee desires to allow on that occasion.

### WSR 96-03-091

#### PROPOSED RULES

#### UNIVERSITY OF WASHINGTON

[Filed January 18, 1996, 1:58 p.m.]

Continuance of WSR 95-24-077.

Preproposal statement of inquiry was filed as WSR 95-20-033.

Title of Rule: Amending chapter 478-120 WAC, Student conduct code for the University of Washington; and chapter 478-124 WAC, General conduct code for the University of Washington.

Purpose: To hold a second hearing and change the date of intended adoption.

Hearing Location: Room 106B Husky Union Building (HUB), University of Washington, Seattle, Washington, on March 8, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact UW Disability Services by February 23, 1996, TDD (206) 543-6452, or (206) 543-6450.

Submit Written Comments to: Rebecca Goodwin Deardorff, Administrative Procedures Officer, Administrative Procedures Office, Box 355509, University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203, FAX (206) 543-0786, by March 7, 1996.

Date of Intended Adoption: April 19, 1996.

January 16, 1996

Rebecca Goodwin Deardorff

Administrative Procedures Officer

### WSR 96-03-093

#### PROPOSED RULES

#### NOXIOUS WEED CONTROL BOARD

[Filed January 19, 1996, 11:04 a.m.]

Continuance of WSR 95-24-112.

Preproposal statement of inquiry was filed as WSR 95-13-089.

Title of Rule: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Purpose: Continuance to extend adoption date.

Date of Intended Adoption: February 21, 1996.

January 19, 1996  
Ray Fann, Chairman  
by Laurie Penders  
Executive Secretary

**WSR 96-03-095**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed January 19, 1996, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-054.

Title of Rule: WAC 388-49-670 (6)(a)(b) Intentional program violations—Disqualification penalties.

Purpose: Implement *Garcia vs. Concannon*, 67 Fed. 3rd 256 and United States Department of Agriculture.

Other Identifying Information: U.S. 9th Circuit Court of Appeals.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Voids pending intentional program violation disqualifications.

Reasons Supporting Proposal: Court decision is binding upon the department.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, (360) 438-8326.

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

Rule is necessary because of federal court decision, *Garcia vs. Oregon* and USDA.

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

Proposal Changes the Following Existing Rules: [No Information Supplied by Agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not apply to the Department of Social and Health Services.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on February 29, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 15, 1996, TDD (360) 753-0625, or SCAN (360) 753-0625.

Submit Written Comments to: Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, Identify WAC Numbers, FAX (360) 664-0118, by February 22, 1996.

Date of Intended Adoption: March 1, 1996.

January 19, 1996  
Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3894, filed 9/7/95, effective 10/6/95)

**WAC 388-49-670 Intentional program violations—Disqualification penalties.** (1) The department shall disqualify the person or persons committing an intentional program violation as defined in WAC 388-49-020.

(2) The department shall apply the following disqualification penalties to a person committing an intentional program violation for offenses not related to those described in subsection (3) of this section:

- (a) Six months for the first disqualification;
- (b) Twelve months for the second disqualification; and
- (c) Permanently for the third disqualification.

(3) The department shall apply disqualification penalties against a person for trading or receiving food coupons for controlled substances or firearms. The department shall impose:

(a) A one-year disqualification penalty for a first conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(b) A permanent disqualification for:

(i) The second conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) The first conviction by a federal, state, or local court of the trading or receiving of food coupons for firearms, ammunition, or explosives.

(4) The department shall consider multiple violations as only one disqualification when the violations occur before the department notified the household of the penalties, as described in subsection (2)(a) of this section.

(5) When a court of law convicts a person of an offense which qualifies as an intentional program violation, the department shall:

(i) Recommend that a disqualification penalty, as provided in subsection (2) or (3) of this section, be imposed in addition to any civil or criminal intentional program violation penalties;

(ii) Impose a disqualification period as specified in subsection (2) or (3) of this section if the court fails to address disqualification or specify a disqualification period;

(iii) Initiate the disqualification period for the currently eligible person or persons within forty-five days of the date the:

(A) Disqualification is ordered if the court does not specify a date; or

(B) Court finds such person or persons guilty if the court specifies a disqualification date; and

(iv) Not initiate or continue an intentional program violation disqualification period contrary to a court order.

(6) ~~(The department shall provide written notice of disqualification to the person or persons before the disqualification. The department shall ensure the notice informs the:~~

~~(a) Participating person or persons of the disqualification and the effective date of the disqualification; or~~

~~(b) Nonparticipating person or persons that the disqualification period will be deferred until such time as the person or persons applies for and is found eligible for benefits))~~

PROPOSED

Before the disqualification is implemented, the department shall provide written notice informing the disqualified person of the disqualification and effective date.

(7) The department shall provide written notice to the remaining household member or members, if any:

(a) Of the allotment the household will receive during the period of disqualification; or

(b) That the household must re-apply because the certification period has expired.

(8) The department shall recognize an intentional program violation determined in another state or political jurisdiction.

**WSR 96-03-097**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed January 19, 1996, 4:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-035; and is exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-49-500 Income—Deductions.

Purpose: Reduce the food stamp standard deduction from \$138 to \$134.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: Administrative Notice 96-03 United States Department of Agriculture.

Summary: Reduces the food stamp standard deduction from \$138 to \$134 effective December 1, 1995.

Reasons Supporting Proposal: On October 21, 1995, the President signed the FY 1996 Agriculture Appropriations bill. This law reduces the food stamp standard deduction from \$138 to \$134.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, (360) 438-8325.

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

Rule is necessary because of federal law, USDA - AN 96-03.

Explanation of Rule, its Purpose, and Anticipated Effects: On October 21, 1995, the President signed the fiscal year (FY) 1996 Agriculture Appropriations bill which, in effect, reauthorizes the food stamp program. This law requires that the standard deduction be frozen at the FY 1995 level effective upon enactment, October 21, 1995.

Proposal Changes the Following Existing Rules: This revision reduces the food stamp standard deduction from \$138 to \$134 effective December 1, 1995, rather than November 1, 1995.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small business; it only affects food stamp recipients.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 does not apply to the Department of Social and Health Services.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on February 29, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 15, 1996, TDD (360) 753-0625, or (SCAN) 753-0625.

Submit Written Comments to: Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, Identify WAC Number, FAX (360) 664-0118, by February 22, 1996.

Date of Intended Adoption: March 1, 1996.

January 19, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3907, filed 10/11/95, effective 11/11/95)

**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-eight~~) 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 one year 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 forty-seven 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) 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 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 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 forty-three 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 forty-three dollars; or
  - (ii) Unverified shelter costs exceeding one hundred forty-three 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.

**WSR 96-03-099**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed January 19, 1996, 4:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-038.

Title of Rule: WAC 388-215-1600 Assistance units and 388-215-1610 Assistance units—Optional members.

**Purpose:** The Department of Social and Health Services had decided to amend its assistance unit rules for the aid to families with dependent children (AFDC) program to be consistent with the State Court of Appeals decision in *Sams v. DSHS*. In addition, the Department of Social and Health Services decided to settle existing claims filed by families who have been adversely affected by the policy which the *Sams* court found to be inconsistent with federal law. These settlements will include the continuation of assistance for dependent children adversely affected by the current rule as well as forgiving any debts incurred by the families which resulted from the application of the current rule.

**Statutory Authority for Adoption:** RCW 74.04.050 Department to administer public assistance programs.

**Statute Being Implemented:** Sections 406(a) and 407(a) of the Social Security Act - Definitions.

**Summary:** The Department of Social and Health Services has decided to amend its assistance unit rules for the aid to families with dependent children (AFDC) program to be consistent with the State Court of Appeals decision in *Sams v. DSHS*.

**Reasons Supporting Proposal:** The Department of Social and Health Services decided to settle existing claims filed by families who have been adversely affected by the policy which the *Sams* court found to be inconsistent with federal law. These settlements will include the continuation of assistance for dependent children adversely affected by the current rule as well as forgiving any debts incurred by the families which resulted from the application of the current rule.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Kevin Sullivan, Division of Income Assistance, (360) 438-8312.

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

Rule is necessary because of state court decision, Social Security Act 406(a) and 407(a) Court of Appeals of the State of Washington #12879-2-III.

**Explanation of Rule, its Purpose, and Anticipated Effects:** WAC 388-215-1600 Assistance units and 388-215-1610 Assistance units—Optional members.

**Proposal Changes the Following Existing Rules:** This rule change allows AFDC recipients the option of including a half sibling child in the assistance unit when both the child's parents live in the household and are unmarried. Under the existing rule, it is mandatory that a half-sibling child be included in the assistance unit.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects recipients of aid to families with dependent children.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 does not apply to the Department of Social and Health Services.

**Hearing Location:** OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on February 29, 1996, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Merry Kogut, Supervisor, by February 15, 1996, TDD (360) 753-0625, or (SCAN) 753-0625.

**Submit Written Comments to:** Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800,

Olympia, WA 98504, Identify WAC Numbers, FAX (360) 664-0118, by February 22, 1996.

Date of Intended Adoption: March 1, 1996.

January 19, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

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

**WAC 388-215-1600 Assistance units.** Except as specified under WAC 388-215-1620, the department shall include, in a single assistance unit, the following persons living together:

(1) A woman in her third trimester of pregnancy who has no other child; or

(2) Except as specified under WAC 388-215-1610, the child((s)), including all full, half, or adopted brothers and sisters of such child; and

(3) The parent(((s))), adoptive parent(((s))), or stepparent(((s))) with whom the child lives as defined under WAC 388-215-1050; and

(4) A minor parent's parent who claims to be the needy caretaker relative of:

(a) The minor parent;

(b) The minor parent's child; or

(c) The minor parent's full or half brother or half sister.

**AMENDATORY SECTION** (Amending Order 3806, filed 11/9/94, effective 12/10/94)

**WAC 388-215-1610 Assistance units—Optional members.** Except as specified under WAC 388-215-1620, the department may include in the assistance unit at the option of the family:

(1) One needy nonparental caretaker relative of specified degree as defined under WAC 388-215-1080 whose eligibility depends solely on caring for the eligible child(ren), if a parent does not reside in the family home. For the purpose of determining the eligibility of the nonparental caretaker relative under this section, the department shall:

(a) Consider a child who receives SSI or federal, state or local foster care benefits as an eligible child when no other AFDC eligible child lives in the home; and

(b) Not include the income, resources or needs of the child who receives SSI or federal, state or local foster care when determining the need and the amount of the assistance payment of the assistance unit.

(2) The stepbrothers or stepsisters of a child included in the assistance unit, except as required in WAC 388-215-1600;

(3) The sibling(s) of an SSI child;

(4) For recipient assistance units, the child of unmarried parents when the child is living with both parents.

**WSR 96-03-105**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed January 22, 1996, 11:45 a.m.]

Continuance of WSR 95-24-094.

Preproposal statement of inquiry was filed as WSR 95-11-006.

Title of Rule: WAC 388-73-030 General qualifications of licenses, adoptive applicant, and persons on the premises; 388-150-090 License denial, suspension, or revocation; 388-151-090 License denial, suspension, or revocation; 388-155-090 License denial, suspension, or revocation; 388-160-090 General qualifications of licensee, applicant, and persons on the premises; 388-330-010 Purpose and authority; and 388-330-035 Appeal of disqualifications.

Purpose: Provides an appeal process for persons disqualified from employment in a child care facility because of findings or allegations of child abuse or neglect.

Date of Intended Adoption: February 16, 1996.

January 22, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-03-115**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
(Filed January 23, 1996, 10:45 a.m.)

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-118 dated January 3, 1996.

Title of Rule: Workers' compensation insurance premium rates, chapter 296-17 WAC.

Purpose: Amend base rate premium tables to reflect a twenty-seven percent rate reduction in all risk classifications.

Statutory Authority for Adoption: RCW 51.16.035 and 51.32.073.

Statute Being Implemented: RCW 51.16.035 and 51.32.073.

Summary: The department is proposing to reduce workers' compensation premium rates twenty-seven percent for all employers effective April 1, 1996, as a result of investment income out performing original projections.

Reasons Supporting Proposal: RCW 51.16.035 requires labor and industries to set rates which are the lowest necessary to maintain solvency of the accident and medical aid funds. Since the investment income causes the funds to exceed that which is necessary to meet the financial obligations of the funds it is necessary to return the excess as a dividend via lower rates.

Name of Agency Personnel Responsible for Drafting: Bill White, Senior Actuary/Frank Romero, Classification Services, Tumwater, (360) 902-5014/902-4748; Implementation: Theresa Whitmarsh, Assistant Director for Insurance Services/Kathy Kimbel, Program Manager, Tumwater, (360) 902-4209/902-4835; and Enforcement: Douglas Mathers, Chief Field Auditor, Tumwater, (360) 902-4750.



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: The subject rules concern base insurance rates paid by all employers insured by the state fund. This filing proposes to reduce workers' compensation insurance rates twenty-seven percent in all risk classifications for all employers insured with the state fund effective April 1, 1996.

Proposal Changes the Following Existing Rules: Provides for a twenty-seven percent rate reduction for all Washington employers effective April 1, 1996.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Due to the fact that the proposed rule will not impose costs on business, but actually reduce costs to employers and employees by reducing workers' compensation premium rates, the department is not required to prepare a small business economic impact statement. (RCW 19.85.030(1)).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vi) provides an exemption for rules that set rates or fees pursuant to legislative standards. RCW 51.16.035 requires labor and industries to establish premium rates for all risk classifications in accordance with recognized principles of insurance.

Hearing Location: Labor and Industries Office Building, 7273 Linderson Way S.W., Tumwater, WA, on February 27, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Ken Woehl by February 23, 1996, TDD (360) 902-4775.

Submit Written Comments to: Labor and Industries, P.O. Box 44148, Olympia, WA 98504-4148, FAX (360) 902-4721, by February 23, 1996.

Date of Intended Adoption: February 28, 1996.

January 22, 1996

Mark O. Brown

Director

**AMENDATORY SECTION** (Amending WSR 95-23-080, filed 11/20/95, effective 1/1/96)

**WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry.** Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

((Base Rates Effective  
January 1, 1996

Class	Accident Fund	Medical Aid Fund
0101	1.4172	0.5715
0102	1.4854	0.6170
0103	1.8132	0.7254
0104	2.0801	0.7529
0105	1.3798	0.6819
0107	1.4288	0.5140
0108	0.9758	0.4055
0109	4.3956	1.4176
0201	3.4169	1.2550

0202	3.6615	1.3351
0206	2.0484	0.6502
0301	0.6195	0.3680
0302	2.2865	0.7455
0306	1.0155	0.4454
0307	0.7527	0.3840
0403	1.5550	0.7622
0502	1.5176	0.5555
0504	1.5926	0.6164
0506	5.1355	1.8101
0507	3.4887	1.5784
0508	3.9724	1.1176
0509	1.8942	0.7103
0510	1.4694	0.6454
0511	1.0721	0.5259
0512	1.8231	0.7620
0513	0.7743	0.3254
0514	1.4694	0.6454
0515	3.1835	1.0775
0516	1.4694	0.6454
0517	1.6642	0.8519
0518	1.7432	0.6389
0519	1.6574	0.8660
0601	0.6904	0.3315
0602	0.4142	0.2003
0603	1.0539	0.4178
0604	1.2062	0.6635
0606	0.2494	0.1791
0607	0.2704	0.1837
0608	0.2834	0.1929
0701	2.8143	0.6631
0803	0.3385	0.1885
0804	1.0371	0.4216
0901	1.6607	0.7050
1002	0.7664	0.4244
1003	0.7456	0.3635
1004	0.5326	0.2664
1005	6.5179	2.2936
1007	0.3419	0.1720
1101	0.5148	0.3196
1102	1.2942	0.5709
1103	0.5178	0.3014
1104	0.4510	0.3173
1106	0.2010	0.1785
1108	0.3764	0.2618
1109	0.6371	0.4659
1301	0.3563	0.2224
1303	0.1687	0.0933
1304	0.0194	0.0143
1305	0.3498	0.2279
1401	0.5856	0.3604
1404	0.5199	0.2839
1405	0.4696	0.2892
1501	0.3728	0.2062
1507	0.2707	0.1773
1701	1.8836	0.6601
1702	1.9135	0.7256
1703	0.3517	0.1739
1704	0.7873	0.3885
1801	0.9288	0.4103
1802	1.1467	0.4951
2002	0.4988	0.3366

PROPOSED

<del>2003</del>	<del>0.3486</del>	<del>0.2379</del>	<del>3909</del>	<del>0.1554</del>	<del>0.1264</del>
<del>2004</del>	<del>0.5495</del>	<del>0.3423</del>	<del>4002</del>	<del>0.8284</del>	<del>0.3892</del>
<del>2007</del>	<del>0.4413</del>	<del>0.2883</del>	<del>4101</del>	<del>0.1962</del>	<del>0.1394</del>
<del>2008</del>	<del>0.2531</del>	<del>0.1489</del>	<del>4103</del>	<del>0.2041</del>	<del>0.1746</del>
<del>2009</del>	<del>0.2825</del>	<del>0.2007</del>	<del>4107</del>	<del>0.1228</del>	<del>0.0970</del>
<del>2101</del>	<del>0.5575</del>	<del>0.3345</del>	<del>4108</del>	<del>0.1557</del>	<del>0.1053</del>
<del>2102</del>	<del>0.3887</del>	<del>0.2727</del>	<del>4109</del>	<del>0.1962</del>	<del>0.1394</del>
<del>2104</del>	<del>0.2166</del>	<del>0.1754</del>	<del>4201</del>	<del>0.3532</del>	<del>0.1573</del>
<del>2105</del>	<del>0.5301</del>	<del>0.2652</del>	<del>4301</del>	<del>0.6919</del>	<del>0.4417</del>
<del>2106</del>	<del>0.3026</del>	<del>0.2009</del>	<del>4302</del>	<del>0.6578</del>	<del>0.3106</del>
<del>2201</del>	<del>0.2343</del>	<del>0.1407</del>	<del>4304</del>	<del>0.5683</del>	<del>0.3786</del>
<del>2202</del>	<del>0.5112</del>	<del>0.3500</del>	<del>4305</del>	<del>0.9549</del>	<del>0.4554</del>
<del>2203</del>	<del>0.2409</del>	<del>0.1850</del>	<del>4401</del>	<del>0.4242</del>	<del>0.2749</del>
<del>2401</del>	<del>0.3615</del>	<del>0.2710</del>	<del>4402</del>	<del>0.5802</del>	<del>0.3923</del>
<del>2903</del>	<del>0.5959</del>	<del>0.4045</del>	<del>4404</del>	<del>0.3797</del>	<del>0.2428</del>
<del>2904</del>	<del>0.6647</del>	<del>0.4304</del>	<del>4501</del>	<del>0.1213</del>	<del>0.0892</del>
<del>2905</del>	<del>0.4210</del>	<del>0.3061</del>	<del>4502</del>	<del>0.0350</del>	<del>0.0257</del>
<del>2906</del>	<del>0.3179</del>	<del>0.1733</del>	<del>4504</del>	<del>0.0708</del>	<del>0.0657</del>
<del>2907</del>	<del>0.4682</del>	<del>0.3037</del>	<del>4601</del>	<del>0.5520</del>	<del>0.3744</del>
<del>2908</del>	<del>0.9149</del>	<del>0.5218</del>	<del>4802</del>	<del>0.1959</del>	<del>0.1365</del>
<del>2909</del>	<del>0.4764</del>	<del>0.3140</del>	<del>4803</del>	<del>0.1749</del>	<del>0.1416</del>
<del>3101</del>	<del>0.8167</del>	<del>0.3955</del>	<del>4804</del>	<del>0.4269</del>	<del>0.3238</del>
<del>3102</del>	<del>0.2806</del>	<del>0.1879</del>	<del>4805</del>	<del>0.2778</del>	<del>0.1826</del>
<del>3103</del>	<del>0.7763</del>	<del>0.3747</del>	<del>4806</del>	<del>0.0553</del>	<del>0.0402</del>
<del>3104</del>	<del>0.4980</del>	<del>0.2476</del>	<del>4808</del>	<del>0.4313</del>	<del>0.2347</del>
<del>3105</del>	<del>0.7579</del>	<del>0.4351</del>	<del>4809</del>	<del>0.2102</del>	<del>0.1553</del>
<del>3303</del>	<del>0.2107</del>	<del>0.1412</del>	<del>4810</del>	<del>0.1175</del>	<del>0.1012</del>
<del>3304</del>	<del>0.5411</del>	<del>0.3456</del>	<del>4811</del>	<del>0.2118</del>	<del>0.1623</del>
<del>3309</del>	<del>0.3439</del>	<del>0.2532</del>	<del>4812</del>	<del>0.2908</del>	<del>0.1842</del>
<del>3401</del>	<del>0.3827</del>	<del>0.2183</del>	<del>4813</del>	<del>0.1999</del>	<del>0.1416</del>
<del>3402</del>	<del>0.4719</del>	<del>0.2611</del>	<del>4901</del>	<del>0.0448</del>	<del>0.0273</del>
<del>3403</del>	<del>0.2034</del>	<del>0.1172</del>	<del>4902</del>	<del>0.0588</del>	<del>0.0358</del>
<del>3404</del>	<del>0.4293</del>	<del>0.2718</del>	<del>4903</del>	<del>0.0448</del>	<del>0.0273</del>
<del>3405</del>	<del>0.3065</del>	<del>0.1646</del>	<del>4904</del>	<del>0.0211</del>	<del>0.0166</del>
<del>3406</del>	<del>0.2081</del>	<del>0.1481</del>	<del>4905</del>	<del>0.1988</del>	<del>0.1832</del>
<del>3407</del>	<del>0.2785</del>	<del>0.1807</del>	<del>4906</del>	<del>0.0694</del>	<del>0.0450</del>
<del>3408</del>	<del>0.0891</del>	<del>0.0580</del>	<del>4907</del>	<del>0.0572</del>	<del>0.0371</del>
<del>3409</del>	<del>0.0795</del>	<del>0.0626</del>	<del>4908</del>	<del>0.0546</del>	<del>0.0954</del>
<del>3410</del>	<del>0.1636</del>	<del>0.1420</del>	<del>4909</del>	<del>0.0275</del>	<del>0.0466</del>
<del>3501</del>	<del>0.9078</del>	<del>0.4806</del>	<del>4910</del>	<del>0.3382</del>	<del>0.2390</del>
<del>3503</del>	<del>0.2249</del>	<del>0.2278</del>	<del>5001</del>	<del>4.8459</del>	<del>1.6341</del>
<del>3506</del>	<del>0.9452</del>	<del>0.3481</del>	<del>5002</del>	<del>0.4719</del>	<del>0.2711</del>
<del>3509</del>	<del>0.3570</del>	<del>0.2475</del>	<del>5003</del>	<del>1.6736</del>	<del>0.6180</del>
<del>3510</del>	<del>0.3762</del>	<del>0.2501</del>	<del>5004</del>	<del>1.5740</del>	<del>0.9331</del>
<del>3511</del>	<del>0.5641</del>	<del>0.3567</del>	<del>5005</del>	<del>1.4172</del>	<del>0.5715</del>
<del>3512</del>	<del>0.3006</del>	<del>0.2589</del>	<del>5101</del>	<del>0.6534</del>	<del>0.4584</del>
<del>3602</del>	<del>0.0895</del>	<del>0.0721</del>	<del>5103</del>	<del>0.5867</del>	<del>0.4236</del>
<del>3603</del>	<del>0.3388</del>	<del>0.2735</del>	<del>5106</del>	<del>0.5849</del>	<del>0.4178</del>
<del>3604</del>	<del>1.3109</del>	<del>0.7452</del>	<del>5108</del>	<del>0.5873</del>	<del>0.3225</del>
<del>3605</del>	<del>0.4369</del>	<del>0.2582</del>	<del>5109</del>	<del>0.6227</del>	<del>0.3175</del>
<del>3701</del>	<del>0.2382</del>	<del>0.1609</del>	<del>5201</del>	<del>0.3060</del>	<del>0.1739</del>
<del>3702</del>	<del>0.4611</del>	<del>0.2676</del>	<del>5204</del>	<del>0.9533</del>	<del>0.5303</del>
<del>3707</del>	<del>0.4308</del>	<del>0.3834</del>	<del>5206</del>	<del>0.5067</del>	<del>0.2445</del>
<del>3708</del>	<del>0.3314</del>	<del>0.2178</del>	<del>5207</del>	<del>0.1086</del>	<del>0.1104</del>
<del>3801</del>	<del>0.2714</del>	<del>0.1596</del>	<del>5208</del>	<del>0.8609</del>	<del>0.4701</del>
<del>3802</del>	<del>0.1556</del>	<del>0.1136</del>	<del>5209</del>	<del>0.6317</del>	<del>0.3935</del>
<del>3808</del>	<del>0.2900</del>	<del>0.1717</del>	<del>5301</del>	<del>0.0255</del>	<del>0.0188</del>
<del>3901</del>	<del>0.1544</del>	<del>0.1133</del>	<del>5305</del>	<del>0.0352</del>	<del>0.0272</del>
<del>3902</del>	<del>0.3432</del>	<del>0.2503</del>	<del>5306</del>	<del>0.0409</del>	<del>0.0306</del>
<del>3903</del>	<del>0.9713</del>	<del>0.7528</del>	<del>5307</del>	<del>0.3101</del>	<del>0.1725</del>
<del>3905</del>	<del>0.1223</del>	<del>0.1184</del>	<del>6103</del>	<del>0.0431</del>	<del>0.0477</del>
<del>3906</del>	<del>0.4847</del>	<del>0.2968</del>	<del>6104</del>	<del>0.1994</del>	<del>0.1602</del>

6105	0.1665	0.1130
6107	0.1014	0.0840
6108	0.4076	0.3121
6109	0.0558	0.0379
6110	0.4166	0.2688
6201	0.2464	0.1455
6202	0.5323	0.3301
6203	0.0674	0.0572
6204	0.1567	0.1276
6205	0.1567	0.1276
6206	0.1567	0.1276
6207	0.8677	0.9145
6208	0.1940	0.1954
6209	0.1954	0.1670
6301	0.1205	0.0660
6302	0.1369	0.0999
6303	0.0610	0.0426
6304	0.1302	0.1233
6305	0.0605	0.0478
6306	0.2344	0.1648
6308	0.0431	0.0301
6309	0.1105	0.0885
6402	0.2545	0.1687
6403	0.1636	0.1420
6404	0.1151	0.1064
6405	0.5351	0.3172
6406	0.0687	0.0588
6407	0.1731	0.1308
6408	0.3077	0.2036
6409	0.4872	0.2804
6410	0.1363	0.1022
6501	0.0839	0.0585
6502	0.0221	0.0182
6503	0.0685	0.0328
6504	0.3112	0.2923
6505	0.0762	0.0702
6506	0.0618	0.0546
6508	0.3065	0.2201
6509	0.1910	0.1621
6601	0.1510	0.1284
6602	0.4006	0.2731
6603	0.2564	0.1759
6604	0.0523	0.0413
6605	0.2564	0.2323
6607	0.1220	0.1091
6608	0.2925	0.1433
6614	283.7000**	185.0000**
6615	211.7000**	137.0000**
6616	27.7000**	16.0000**
6617	20.7000**	13.0000**
6618	80.7000**	68.0000**
6620	0.5566	0.4741
6704	0.1132	0.0821
6705	0.6240	0.5642
6706	0.2995	0.2683
6707	10.88*	9.04*
6708	4.0470	4.3290
6709	0.1408	0.1356
6801	0.2262	0.1416
6802	0.2939	0.2721
6803	1.1663	0.2311
6804	0.1742	0.1150

6809	2.3483	3.5833
6901	0.0000	0.0386
6902	0.9111	0.3011
6903	4.0416	1.7992
6904	0.2107	0.1257
6905	0.2314	0.1571
6906	0.0000	0.1571
6907	1.0944	0.5869
6908	0.3672	0.2416
6909	0.0754	0.0602
7101	0.0275	0.0195
7102	16.56*	24.24*
7103	0.2839	0.1561
7104	0.0207	0.0180
7105	0.0243	0.0182
7106	0.1510	0.0925
7107	0.2423	0.1537
7108	0.1697	0.1442
7109	0.1819	0.1467
7110	0.3464	0.1787
7111	0.4379	0.2811
7112	0.6007	0.3453
7113	0.6496	0.3309
7114	0.5444	0.5040
7115	0.5157	0.3098
7116	0.5403	0.3123
7117	1.1217	0.9047
7118	2.5270	1.4928
7119	1.8565	1.0001
7120	5.1221	3.2106
7121	5.5649	3.1963
7201	1.0186	0.4659
7202	0.0468	0.0303
7203	0.0877	0.0945
7204	0.0000	0.0000
7301	0.5289	0.3009
7302	0.5251	0.4101
7307	0.5511	0.4135
7308	0.1742	0.1680
7309	0.1408	0.1356))

Base Rates Effective  
April 1, 1996

Class	Accident Fund	Medical Aid Fund
0101	1.0345	0.4173
0102	1.0843	0.4505
0103	1.3236	0.5296
0104	1.5184	0.5497
0105	1.0073	0.4978
0107	1.0430	0.3753
0108	0.7123	0.2961
0109	3.2088	1.0349
0201	2.4943	0.9162
0202	2.6729	0.9747
0206	1.4953	0.4747
0301	0.4522	0.2687
0302	1.6691	0.5443
0306	0.7413	0.3252
0307	0.5494	0.2804

PROPOSED

<u>0403</u>	<u>1.1351</u>	<u>0.5565</u>	<u>2102</u>	<u>0.2838</u>	<u>0.1991</u>
<u>0502</u>	<u>1.1078</u>	<u>0.4056</u>	<u>2104</u>	<u>0.1581</u>	<u>0.1281</u>
<u>0504</u>	<u>1.1626</u>	<u>0.4500</u>	<u>2105</u>	<u>0.3869</u>	<u>0.1937</u>
<u>0506</u>	<u>3.7489</u>	<u>1.3214</u>	<u>2106</u>	<u>0.2209</u>	<u>0.1467</u>
<u>0507</u>	<u>2.5467</u>	<u>1.1523</u>	<u>2201</u>	<u>0.1710</u>	<u>0.1028</u>
<u>0508</u>	<u>2.8999</u>	<u>0.8159</u>	<u>2202</u>	<u>0.3731</u>	<u>0.2556</u>
<u>0509</u>	<u>1.3827</u>	<u>0.5186</u>	<u>2203</u>	<u>0.1759</u>	<u>0.1351</u>
<u>0510</u>	<u>1.0727</u>	<u>0.4712</u>	<u>2401</u>	<u>0.2639</u>	<u>0.1979</u>
<u>0511</u>	<u>0.7826</u>	<u>0.3840</u>	<u>2903</u>	<u>0.4350</u>	<u>0.2953</u>
<u>0512</u>	<u>1.3309</u>	<u>0.5563</u>	<u>2904</u>	<u>0.4853</u>	<u>0.3142</u>
<u>0513</u>	<u>0.5652</u>	<u>0.2376</u>	<u>2905</u>	<u>0.3073</u>	<u>0.2235</u>
<u>0514</u>	<u>1.0727</u>	<u>0.4712</u>	<u>2906</u>	<u>0.2320</u>	<u>0.1266</u>
<u>0515</u>	<u>2.3240</u>	<u>0.7866</u>	<u>2907</u>	<u>0.3417</u>	<u>0.2218</u>
<u>0516</u>	<u>1.0727</u>	<u>0.4712</u>	<u>2908</u>	<u>0.6678</u>	<u>0.3810</u>
<u>0517</u>	<u>1.2149</u>	<u>0.6219</u>	<u>2909</u>	<u>0.3477</u>	<u>0.2293</u>
<u>0518</u>	<u>1.2725</u>	<u>0.4665</u>	<u>3101</u>	<u>0.5962</u>	<u>0.2888</u>
<u>0519</u>	<u>1.2099</u>	<u>0.6322</u>	<u>3102</u>	<u>0.2049</u>	<u>0.1372</u>
<u>0601</u>	<u>0.5039</u>	<u>0.2421</u>	<u>3103</u>	<u>0.5667</u>	<u>0.2736</u>
<u>0602</u>	<u>0.3023</u>	<u>0.1463</u>	<u>3104</u>	<u>0.3635</u>	<u>0.1808</u>
<u>0603</u>	<u>0.7693</u>	<u>0.3051</u>	<u>3105</u>	<u>0.5532</u>	<u>0.3177</u>
<u>0604</u>	<u>0.8805</u>	<u>0.4844</u>	<u>3303</u>	<u>0.1538</u>	<u>0.1031</u>
<u>0606</u>	<u>0.1821</u>	<u>0.1308</u>	<u>3304</u>	<u>0.3950</u>	<u>0.2523</u>
<u>0607</u>	<u>0.1973</u>	<u>0.1342</u>	<u>3309</u>	<u>0.2510</u>	<u>0.1849</u>
<u>0608</u>	<u>0.2069</u>	<u>0.1409</u>	<u>3401</u>	<u>0.2794</u>	<u>0.1594</u>
<u>0701</u>	<u>2.0545</u>	<u>0.4841</u>	<u>3402</u>	<u>0.3444</u>	<u>0.1907</u>
<u>0803</u>	<u>0.2471</u>	<u>0.1377</u>	<u>3403</u>	<u>0.1485</u>	<u>0.0856</u>
<u>0804</u>	<u>0.7571</u>	<u>0.3078</u>	<u>3404</u>	<u>0.3134</u>	<u>0.1985</u>
<u>0901</u>	<u>1.2123</u>	<u>0.5147</u>	<u>3405</u>	<u>0.2238</u>	<u>0.1202</u>
<u>1002</u>	<u>0.5594</u>	<u>0.3099</u>	<u>3406</u>	<u>0.1519</u>	<u>0.1082</u>
<u>1003</u>	<u>0.5443</u>	<u>0.2654</u>	<u>3407</u>	<u>0.2033</u>	<u>0.1320</u>
<u>1004</u>	<u>0.3888</u>	<u>0.1945</u>	<u>3408</u>	<u>0.0650</u>	<u>0.0424</u>
<u>1005</u>	<u>4.7581</u>	<u>1.6744</u>	<u>3409</u>	<u>0.0580</u>	<u>0.0458</u>
<u>1007</u>	<u>0.2496</u>	<u>0.1256</u>	<u>3410</u>	<u>0.1194</u>	<u>0.1037</u>
<u>1101</u>	<u>0.3758</u>	<u>0.2334</u>	<u>3501</u>	<u>0.6627</u>	<u>0.3509</u>
<u>1102</u>	<u>0.9448</u>	<u>0.4168</u>	<u>3503</u>	<u>0.1641</u>	<u>0.1664</u>
<u>1103</u>	<u>0.3780</u>	<u>0.2201</u>	<u>3506</u>	<u>0.6900</u>	<u>0.2542</u>
<u>1104</u>	<u>0.3292</u>	<u>0.2317</u>	<u>3509</u>	<u>0.2606</u>	<u>0.1807</u>
<u>1106</u>	<u>0.1467</u>	<u>0.1304</u>	<u>3510</u>	<u>0.2747</u>	<u>0.1826</u>
<u>1108</u>	<u>0.2747</u>	<u>0.1912</u>	<u>3511</u>	<u>0.4118</u>	<u>0.2604</u>
<u>1109</u>	<u>0.4650</u>	<u>0.3402</u>	<u>3512</u>	<u>0.2194</u>	<u>0.1891</u>
<u>1301</u>	<u>0.2601</u>	<u>0.1624</u>	<u>3602</u>	<u>0.0653</u>	<u>0.0527</u>
<u>1303</u>	<u>0.1231</u>	<u>0.0682</u>	<u>3603</u>	<u>0.2473</u>	<u>0.1997</u>
<u>1304</u>	<u>0.0142</u>	<u>0.0105</u>	<u>3604</u>	<u>0.9569</u>	<u>0.5441</u>
<u>1305</u>	<u>0.2554</u>	<u>0.1664</u>	<u>3605</u>	<u>0.3190</u>	<u>0.1885</u>
<u>1401</u>	<u>0.4275</u>	<u>0.2631</u>	<u>3701</u>	<u>0.1739</u>	<u>0.1175</u>
<u>1404</u>	<u>0.3795</u>	<u>0.2073</u>	<u>3702</u>	<u>0.3366</u>	<u>0.1954</u>
<u>1405</u>	<u>0.3428</u>	<u>0.2112</u>	<u>3707</u>	<u>0.3145</u>	<u>0.2799</u>
<u>1501</u>	<u>0.2721</u>	<u>0.1506</u>	<u>3708</u>	<u>0.2419</u>	<u>0.1591</u>
<u>1507</u>	<u>0.1976</u>	<u>0.1295</u>	<u>3801</u>	<u>0.1981</u>	<u>0.1166</u>
<u>1701</u>	<u>1.3751</u>	<u>0.4819</u>	<u>3802</u>	<u>0.1136</u>	<u>0.0830</u>
<u>1702</u>	<u>1.3969</u>	<u>0.5297</u>	<u>3808</u>	<u>0.2117</u>	<u>0.1254</u>
<u>1703</u>	<u>0.2567</u>	<u>0.1270</u>	<u>3901</u>	<u>0.1127</u>	<u>0.0828</u>
<u>1704</u>	<u>0.5747</u>	<u>0.2837</u>	<u>3902</u>	<u>0.2505</u>	<u>0.1828</u>
<u>1801</u>	<u>0.6780</u>	<u>0.2996</u>	<u>3903</u>	<u>0.7090</u>	<u>0.5496</u>
<u>1802</u>	<u>0.8371</u>	<u>0.3615</u>	<u>3905</u>	<u>0.0893</u>	<u>0.0865</u>
<u>2002</u>	<u>0.3641</u>	<u>0.2458</u>	<u>3906</u>	<u>0.3539</u>	<u>0.2167</u>
<u>2003</u>	<u>0.2545</u>	<u>0.1737</u>	<u>3909</u>	<u>0.1135</u>	<u>0.0923</u>
<u>2004</u>	<u>0.4012</u>	<u>0.2499</u>	<u>4002</u>	<u>0.6047</u>	<u>0.2842</u>
<u>2007</u>	<u>0.3222</u>	<u>0.2105</u>	<u>4101</u>	<u>0.1432</u>	<u>0.1018</u>
<u>2008</u>	<u>0.1847</u>	<u>0.1088</u>	<u>4103</u>	<u>0.1490</u>	<u>0.1275</u>
<u>2009</u>	<u>0.2062</u>	<u>0.1466</u>	<u>4107</u>	<u>0.0896</u>	<u>0.0709</u>
<u>2101</u>	<u>0.4070</u>	<u>0.2442</u>	<u>4108</u>	<u>0.1137</u>	<u>0.0769</u>

<u>4109</u>	<u>0.1432</u>	<u>0.1018</u>	<u>6202</u>	<u>0.3886</u>	<u>0.2410</u>
<u>4201</u>	<u>0.2578</u>	<u>0.1149</u>	<u>6203</u>	<u>0.0492</u>	<u>0.0418</u>
<u>4301</u>	<u>0.5051</u>	<u>0.3225</u>	<u>6204</u>	<u>0.1144</u>	<u>0.0932</u>
<u>4302</u>	<u>0.4802</u>	<u>0.2268</u>	<u>6205</u>	<u>0.1144</u>	<u>0.0932</u>
<u>4304</u>	<u>0.4149</u>	<u>0.2764</u>	<u>6206</u>	<u>0.1144</u>	<u>0.0932</u>
<u>4305</u>	<u>0.6971</u>	<u>0.3325</u>	<u>6207</u>	<u>0.6335</u>	<u>0.6676</u>
<u>4401</u>	<u>0.3097</u>	<u>0.2007</u>	<u>6208</u>	<u>0.1416</u>	<u>0.1427</u>
<u>4402</u>	<u>0.4236</u>	<u>0.2864</u>	<u>6209</u>	<u>0.1426</u>	<u>0.1220</u>
<u>4404</u>	<u>0.2772</u>	<u>0.1773</u>	<u>6301</u>	<u>0.0880</u>	<u>0.0482</u>
<u>4501</u>	<u>0.0885</u>	<u>0.0652</u>	<u>6302</u>	<u>0.0999</u>	<u>0.0730</u>
<u>4502</u>	<u>0.0256</u>	<u>0.0188</u>	<u>6303</u>	<u>0.0445</u>	<u>0.0312</u>
<u>4504</u>	<u>0.0517</u>	<u>0.0480</u>	<u>6304</u>	<u>0.0950</u>	<u>0.0901</u>
<u>4601</u>	<u>0.4029</u>	<u>0.2734</u>	<u>6305</u>	<u>0.0441</u>	<u>0.0350</u>
<u>4802</u>	<u>0.1430</u>	<u>0.0997</u>	<u>6306</u>	<u>0.1711</u>	<u>0.1204</u>
<u>4803</u>	<u>0.1277</u>	<u>0.1034</u>	<u>6308</u>	<u>0.0315</u>	<u>0.0220</u>
<u>4804</u>	<u>0.3117</u>	<u>0.2364</u>	<u>6309</u>	<u>0.0806</u>	<u>0.0647</u>
<u>4805</u>	<u>0.2027</u>	<u>0.1334</u>	<u>6402</u>	<u>0.1858</u>	<u>0.1232</u>
<u>4806</u>	<u>0.0404</u>	<u>0.0294</u>	<u>6403</u>	<u>0.1194</u>	<u>0.1037</u>
<u>4808</u>	<u>0.3148</u>	<u>0.1714</u>	<u>6404</u>	<u>0.0841</u>	<u>0.0777</u>
<u>4809</u>	<u>0.1535</u>	<u>0.1134</u>	<u>6405</u>	<u>0.3906</u>	<u>0.2316</u>
<u>4810</u>	<u>0.0858</u>	<u>0.0739</u>	<u>6406</u>	<u>0.0501</u>	<u>0.0430</u>
<u>4811</u>	<u>0.1546</u>	<u>0.1185</u>	<u>6407</u>	<u>0.1264</u>	<u>0.0955</u>
<u>4812</u>	<u>0.2123</u>	<u>0.1345</u>	<u>6408</u>	<u>0.2246</u>	<u>0.1487</u>
<u>4813</u>	<u>0.1460</u>	<u>0.1034</u>	<u>6409</u>	<u>0.3557</u>	<u>0.2047</u>
<u>4901</u>	<u>0.0327</u>	<u>0.0200</u>	<u>6410</u>	<u>0.0995</u>	<u>0.0747</u>
<u>4902</u>	<u>0.0429</u>	<u>0.0262</u>	<u>6501</u>	<u>0.0612</u>	<u>0.0428</u>
<u>4903</u>	<u>0.0327</u>	<u>0.0200</u>	<u>6502</u>	<u>0.0162</u>	<u>0.0133</u>
<u>4904</u>	<u>0.0154</u>	<u>0.0122</u>	<u>6503</u>	<u>0.0500</u>	<u>0.0240</u>
<u>4905</u>	<u>0.1451</u>	<u>0.1338</u>	<u>6504</u>	<u>0.2272</u>	<u>0.2134</u>
<u>4906</u>	<u>0.0507</u>	<u>0.0329</u>	<u>6505</u>	<u>0.0556</u>	<u>0.0513</u>
<u>4907</u>	<u>0.0418</u>	<u>0.0271</u>	<u>6506</u>	<u>0.0451</u>	<u>0.0399</u>
<u>4908</u>	<u>0.0399</u>	<u>0.0697</u>	<u>6508</u>	<u>0.2238</u>	<u>0.1607</u>
<u>4909</u>	<u>0.0200</u>	<u>0.0341</u>	<u>6509</u>	<u>0.1394</u>	<u>0.1184</u>
<u>4910</u>	<u>0.2469</u>	<u>0.1745</u>	<u>6601</u>	<u>0.1102</u>	<u>0.0938</u>
<u>5001</u>	<u>3.5376</u>	<u>1.1929</u>	<u>6602</u>	<u>0.2925</u>	<u>0.1994</u>
<u>5002</u>	<u>0.3444</u>	<u>0.1980</u>	<u>6603</u>	<u>0.1871</u>	<u>0.1285</u>
<u>5003</u>	<u>1.2217</u>	<u>0.4512</u>	<u>6604</u>	<u>0.0382</u>	<u>0.0302</u>
<u>5004</u>	<u>1.1490</u>	<u>0.6812</u>	<u>6605</u>	<u>0.1872</u>	<u>0.1696</u>
<u>5005</u>	<u>1.0345</u>	<u>0.4173</u>	<u>6607</u>	<u>0.0891</u>	<u>0.0797</u>
<u>5101</u>	<u>0.4770</u>	<u>0.3347</u>	<u>6608</u>	<u>0.2135</u>	<u>0.1047</u>
<u>5103</u>	<u>0.4283</u>	<u>0.3093</u>	<u>6614</u>	<u>283.7000*</u>	<u>185.0000*</u>
<u>5106</u>	<u>0.4269</u>	<u>0.3051</u>	<u>6615</u>	<u>211.7000*</u>	<u>137.0000*</u>
<u>5108</u>	<u>0.4287</u>	<u>0.2355</u>	<u>6616</u>	<u>27.7000*</u>	<u>16.0000*</u>
<u>5109</u>	<u>0.4546</u>	<u>0.2318</u>	<u>6617</u>	<u>20.7000*</u>	<u>13.0000*</u>
<u>5201</u>	<u>0.2234</u>	<u>0.1270</u>	<u>6618</u>	<u>80.7000*</u>	<u>68.0000*</u>
<u>5204</u>	<u>0.6959</u>	<u>0.3872</u>	<u>6620</u>	<u>0.4064</u>	<u>0.3461</u>
<u>5206</u>	<u>0.3699</u>	<u>0.1785</u>	<u>6704</u>	<u>0.0826</u>	<u>0.0600</u>
<u>5207</u>	<u>0.0793</u>	<u>0.0806</u>	<u>6705</u>	<u>0.4555</u>	<u>0.4119</u>
<u>5208</u>	<u>0.6285</u>	<u>0.3432</u>	<u>6706</u>	<u>0.2187</u>	<u>0.1959</u>
<u>5209</u>	<u>0.4612</u>	<u>0.2873</u>	<u>6707</u>	<u>0.9928</u>	<u>0.8250</u>
<u>5301</u>	<u>0.0186</u>	<u>0.0138</u>	<u>6708</u>	<u>2.9544</u>	<u>3.1602</u>
<u>5305</u>	<u>0.0257</u>	<u>0.0199</u>	<u>6709</u>	<u>0.1028</u>	<u>0.0990</u>
<u>5306</u>	<u>0.0299</u>	<u>0.0224</u>	<u>6801</u>	<u>0.1652</u>	<u>0.1034</u>
<u>5307</u>	<u>0.2264</u>	<u>0.1260</u>	<u>6802</u>	<u>0.2145</u>	<u>0.1987</u>
<u>6103</u>	<u>0.0314</u>	<u>0.0349</u>	<u>6803</u>	<u>0.8514</u>	<u>0.1688</u>
<u>6104</u>	<u>0.1456</u>	<u>0.1170</u>	<u>6804</u>	<u>0.1272</u>	<u>0.0840</u>
<u>6105</u>	<u>0.1216</u>	<u>0.0825</u>	<u>6809</u>	<u>1.7142</u>	<u>2.6159</u>
<u>6107</u>	<u>0.0740</u>	<u>0.0614</u>	<u>6901</u>	<u>0.0000</u>	<u>0.0282</u>
<u>6108</u>	<u>0.2975</u>	<u>0.2279</u>	<u>6902</u>	<u>0.6651</u>	<u>0.2199</u>
<u>6109</u>	<u>0.0408</u>	<u>0.0277</u>	<u>6903</u>	<u>2.9503</u>	<u>1.3135</u>
<u>6110</u>	<u>0.3041</u>	<u>0.1963</u>	<u>6904</u>	<u>0.1538</u>	<u>0.0918</u>
<u>6201</u>	<u>0.1798</u>	<u>0.1063</u>	<u>6905</u>	<u>0.1690</u>	<u>0.1147</u>

**WSR 96-03-131**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed January 23, 1996, 12:11 p.m.]

<u>6906</u>	<u>0.0000</u>	<u>0.1147</u>
<u>6907</u>	<u>0.7989</u>	<u>0.4285</u>
<u>6908</u>	<u>0.2681</u>	<u>0.1764</u>
<u>6909</u>	<u>0.0550</u>	<u>0.0440</u>
<u>7101</u>	<u>0.0201</u>	<u>0.0143</u>
<u>7102</u>	<u>1.5111</u>	<u>2.3945</u>
<u>7103</u>	<u>0.2073</u>	<u>0.1140</u>
<u>7104</u>	<u>0.0151</u>	<u>0.0132</u>
<u>7105</u>	<u>0.0178</u>	<u>0.0133</u>
<u>7106</u>	<u>0.1102</u>	<u>0.0676</u>
<u>7107</u>	<u>0.1768</u>	<u>0.1123</u>
<u>7108</u>	<u>0.1239</u>	<u>0.1053</u>
<u>7109</u>	<u>0.1328</u>	<u>0.1071</u>
<u>7110</u>	<u>0.2529</u>	<u>0.1305</u>
<u>7111</u>	<u>0.3196</u>	<u>0.2053</u>
<u>7112</u>	<u>0.4385</u>	<u>0.2521</u>
<u>7113</u>	<u>0.4742</u>	<u>0.2416</u>
<u>7114</u>	<u>0.3974</u>	<u>0.3680</u>
<u>7115</u>	<u>0.3765</u>	<u>0.2262</u>
<u>7116</u>	<u>0.3945</u>	<u>0.2280</u>
<u>7117</u>	<u>0.8188</u>	<u>0.6605</u>
<u>7118</u>	<u>1.8447</u>	<u>1.0898</u>
<u>7119</u>	<u>1.3553</u>	<u>0.7301</u>
<u>7120</u>	<u>3.7391</u>	<u>2.3438</u>
<u>7121</u>	<u>4.0623</u>	<u>2.3334</u>
<u>7201</u>	<u>0.7435</u>	<u>0.3402</u>
<u>7202</u>	<u>0.0341</u>	<u>0.0222</u>
<u>7203</u>	<u>0.0641</u>	<u>0.0690</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7301</u>	<u>0.3861</u>	<u>0.2197</u>
<u>7302</u>	<u>0.3834</u>	<u>0.2994</u>
<u>7307</u>	<u>0.4023</u>	<u>0.3019</u>
<u>7308</u>	<u>0.1272</u>	<u>0.1227</u>
<u>7309</u>	<u>0.1028</u>	<u>0.0990</u>

(~~\*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.~~)

\* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

**AMENDATORY SECTION** (Amending WSR 95-23-080, filed 11/20/95, effective 1/1/96)

**WAC 296-17-920 Assessment for supplemental pension fund.** The amount of (~~(23.6)~~) 17.2 mills (~~(\$0.236)~~) (\$0.172) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. (~~Provided that in classifications 6707 and 7102, the employer shall retain nineteen cents per day from each worker.~~) The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 95-14-052.

Title of Rule: WAC 460-42A-081 Exchange and national market system exemption.

Purpose: To promote uniformity with other jurisdictions which have recognized the Philadelphia and Pacific Stock Exchanges, the discontinuance of the Spokane Stock Exchange, and the redesignation of the Midwest Stock Exchange.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: RCW 21.20.310(8).

Summary: To recognize the Pacific and Philadelphia Stock Exchanges, which have executed Memoranda of Understanding with the North American Securities Administrators Association, Inc. (NASAA); to delete reference to the Spokane Stock Exchange, which has ceased doing business as a securities exchange; and to change the reference to the Midwest Stock Exchange to the Chicago Stock Exchange due to the renaming of that organization.

Reasons Supporting Proposal: To promote uniformity with other jurisdictions which have recognized the Philadelphia and Pacific Stock Exchanges, the discontinuance of the Spokane Stock Exchange, and the redesignation of the Midwest Stock Exchange.

Name of Agency Personnel Responsible for Drafting: Brad Ferber, 210 11th Avenue S.W., 3rd Floor West, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., 3rd Floor West, (360) 902-8700; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., 3rd 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: Changes are being proposed to recognize the Pacific and Philadelphia Stock Exchanges, which have executed Memoranda of Understanding with the North American Securities Administrators Association, Inc. (NASAA); to delete reference to the Spokane Stock Exchange, which has ceased doing business as a securities exchange; and to change the reference to the Midwest Stock Exchange to the Chicago Stock Exchange due to the renaming of that organization. These changes will expand the exchange and national market system exemption to recognize certain securities listed on the Pacific and Philadelphia Stock Exchanges. This will assist capital formation by making these exchanges available to issuers of securities which become listed on those exchanges.

Proposal Changes the Following Existing Rules: To recognize the Pacific and Philadelphia Stock Exchanges, which have executed Memoranda of Understanding with the North American Securities Administrators Association, Inc. (NASAA); to delete reference to the Spokane Stock Exchange, which has ceased doing business as a securities

PROPOSED

exchange; and to change the reference to the Midwest Stock Exchange to the Chicago Stock Exchange due to the renaming of that organization.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes are anticipated to have no economic impact and will be beneficial to capital formation by offering an additional avenue to exempt securities from the registration requirements of the Securities Act of Washington.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not among the agencies enumerated in the legislation and the agency has not applied it to the rule making.

Hearing Location: Third Floor West Conference Room, General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on April 23, 1996, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Bamer by April 22, 1996, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: FAX (360) 586-5068, by April 22, 1996.

Date of Intended Adoption: May 1, 1996.

January 19, 1996

John L. Bley  
Director

**AMENDATORY SECTION** (Amending WSR 91-04-010, filed 1/25/91, effective 2/25/91)

**WAC 460-42A-081 Exchange and national market system exemption.** (1) Any securities listed or designated, or approved for listing or designation upon notice of issuance, on (a) the New York Stock Exchange, (b) the American Stock Exchange, (c) the NASDAQ/NMS interdealer quotation system pursuant to the Memorandum of Understanding between the North American Securities Administrators Association (NASAA) and the National Association of Securities Dealers (NASD) adopted April 28, 1990, ((e)) (d) the Chicago Board Options Exchange pursuant to the Memorandum of Understanding between NASAA and the Chicago Board Options Exchange dated May 30, 1991, (e) Tier I on the Pacific Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Pacific Stock Exchange dated October 12, 1994, or (f) Tier I on the Philadelphia Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Philadelphia Stock Exchange dated October 12, 1994, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant or right to purchase or subscribe to any of the foregoing is exempt under RCW 21.20.310(8). The administrator may by order withdraw this exemption as to an exchange or interdealer quotation system or a particular security when necessary in the public interest for the protection of investors.

(2) For the purposes of nonissuer transactions only, any security listed or approved for listing upon notice of issuance on (a) the NASDAQ/NMS interdealer quotation system, (b) the New York Stock Exchange, (c) the American Stock Exchange, (d) the ((Midwest)) Chicago Stock Exchange, ((the Spokane Stock Exchange,)) (e) the Chicago Board

Options Exchange, (f) the Pacific Stock Exchange, (g) the Philadelphia Stock Exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing, is exempted under RCW 21.20.310(8).

**WSR 96-03-132**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed January 23, 1996, 12:12 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 460-46A-050 Promotional shares.

Purpose: To correct error in CR-102 filed June 28, 1995 (WSR 95-14-053) and CR-103 filed August 16, 1995 (WSR 95-17-068) where reference to WAC 460-16A-104, which was otherwise repealed by the rule making, was not struck out. The intended version was provided in CR-101 filed November 14, 1994 (WSR 94-23-055).

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: RCW 21.20.3180, 21.20.210.

Reasons Supporting Proposal: Prior rule-making process adopted North American Securities Administrators Association (NASAA) statement of policy concerning promotional shares. Regulations applicable to promotional shares were substantially repealed in favor of application of uniform NASAA guidelines. Former WAC 460-16A-104 was included in the repealer, but the reference to that regulation contained in WAC 460-46A-050 (relating to the corporate limited offering exemption) was not deleted.

Name of Agency Personnel Responsible for Drafting: Brad Ferber, 210 11th Avenue S.W., 3rd Floor West, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., 3rd Floor West, (360) 902-8700; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., 3rd 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: The prior rule-making process updated Washington law to implement North American Securities Administrators Association (NASAA) statements of policy regarding the registration of securities, including in the area of promotional shares. The CR-101 contained the following:

**AMENDATORY SECTION:**

WAC 460-46A-050 Promotional shares. The promotional shares rules set forth in WAC ~~((460-16A-106, 460-16A-109, and))~~ 460-16A-110 and adopted in WAC 460-16A-205 (1)(p) shall apply except that promotional shares need be escrowed ~~((pursuant to WAC 460-16A-104))~~ only to the

extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering.

In the subsequent CR-102 and CR-103 filings, the language in the latter part of the section which contains the second reference to WAC 460-16A-104 and which states "pursuant to WAC 460-16A-104" was not shown as struck out. This rule making is being done to correct this typographical error and to clarify the language of the rule without changing its effect.

Proposal Changes the Following Existing Rules:  
Corrects typographical error in filings subsequent to initial filing of Preproposal Statement of Intent.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The change is to correct a typographical error and to clarify language in the rule without having any economic or other effect.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not among the agencies enumerated in the legislation, the agency has not applied it to the rule making, and the change is intended to correct a typographical error.

Hearing Location: Third Floor West Conference Room, General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on April 23, 1996, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Bamer by April 22, 1996, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: FAX (360) 586-5068, by April 22, 1996.

Date of Intended Adoption: May 1, 1996.

January 19, 1996  
John L. Bley  
Director

AMENDATORY SECTION (Amending WSR 95-17-068, filed 8/16/95, effective 9/16/95)

**WAC 460-46A-050 Promotional shares.** The promotional shares rules set forth in WAC 460-16A-110 and adopted in WAC 460-16A-205 (1)(p) shall apply except that promotional shares need be escrowed (~~pursuant to WAC 460-16A-104~~) only to the extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering.

**WSR 96-03-134**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Board of Pharmacy)  
[Filed January 23, 1996, 1:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-104.

Title of Rule: WAC 246-885-030 Over-the-counter drug imprint regulation.

Purpose: To prevent the sale of products sold in Washington that do not comply with chapter 69.60 RCW.

Statutory Authority for Adoption: RCW 18.64.005.

Summary: This rule will regulate solid dosage imprinting of over-the-counter medications sold or distributed in the state of Washington.

Reasons Supporting Proposal: To protect public health from recurrent tampering with OTC medications and will help identify those that may have accidentally been ingested.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, Olympia, 753-6834.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will regulate solid dosage imprinting of OTC medications. The purpose is to prevent recurrent tampering of OTC medications and prompt identification of the product when treating for accidental ingestion.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will not impact small business in Washington state.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule is not legislatively significant as defined by section 201, chapter 403, Laws of 1995.

Hearing Location: Firgrove Business Park, 2413 Pacific Avenue, Olympia, WA 98504-7872, on February 28, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Lisa Salmi, (360) 753-6834.

Submit Written Comments to: P.O. Box 47863, Olympia, WA 98504-7863, FAX (360) 586-4359.

Date of Intended Adoption: February 28, 1996.

December 14, 1995  
Donald H. Williams  
Executive Director

NEW SECTION

**WAC 246-885-030 Over-the-counter (OTC) drug imprint regulation.** (1) Pursuant to the provisions of RCW 69.60.090, chapter 69.60 RCW will cease to exist in its entirety upon implementation by the federal Food and Drug Administration (FDA) of provisions regulating solid dosage imprinting of OTC medications and upon a finding by the Washington state board of pharmacy that the FDA regulations are substantially equivalent to those in chapter 69.60 RCW.

(2) The FDA adopted a final rule regarding OTC solid dosage imprinting, codified in 21 CFR 206.01-10. This rule became effective September 13, 1995. The applicability of the federal rule is limited to those products introduced into interstate commerce on or after the effective date of the regulation. The rule is inapplicable to those noncompliant products introduced into interstate commerce prior to the effective date and to those products pending FDA review and approval of applications submitted by the manufacturer.

(3) The board finds that the inapplicability of the FDA rule to noncompliant products introduced into interstate commerce before the effective date and to those products currently on the market would permit the sale of these



products in the state of Washington and thus fails to adequately protect the citizens of the state of Washington.

(4) Therefore, notwithstanding the provisions of 21 CFR 206.1 et seq. no nonimprinted solid dosage form drug that is intended for OTC sale may be distributed into or sold in the state of Washington unless it has been found by the board to be exempt from the provisions of this chapter or has received an exemption from the FDA pursuant to 21 CFR 206.7. Copies of official documents that support such exemptions shall be filed with the board prior to any distribution of the nonimprinted product(s).

**WSR 96-03-135**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed January 23, 1996, 1:30 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-20-036.

**Title of Rule:** Housekeeping changes are proposed for the following: Chapter 391-08 WAC, Rules of practice and procedure; chapter 391-25 WAC, Representation case rules; chapter 391-35 WAC, Unit clarification rules; chapter 391-45 WAC, Unfair labor practice case rules; chapter 391-55 WAC, Impasse resolution rules; chapter 391-65 WAC, Grievance arbitration rules; and chapter 391-95 WAC, Union security dispute rules.

**Purpose:** These rule changes are proposed to correct typographical errors, include gender-neutral language, conform rules to statutes, clarify and update agency procedures, and to codify case precedents.

**Statutory Authority for Adoption:** RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050.

**Statute Being Implemented:** Additional statutory authority for the implementation of these rule changes are listed as follows: WAC 391-08-120 is RCW 34.05.010 (6) and (18); WAC 391-08-650 and 391-08-670 is RCW 34.05.220; WAC 391-25-011 is RCW 41.56.201; WAC 391-25-030, 391-25-050, 391-25-070 and 391-25-090 is RCW 28B.52.030, 34.05.413, 41.56.060, [41.56].070, 41.59.070 and [41.59].080; WAC 391-25-110 and 391-25-130 is RCW 41.56.070 and 41.59.070; WAC 391-25-140 is RCW 41.56.050; WAC 391-25-170 and 391-25-190 is RCW 28B.52.030, 41.56.070 and 41.59.070; WAC 391-25-220 is RCW 34.05.431; WAC 391-25-230 and 391-25-250 is RCW 28B.52.030, 41.56.060, [41.56].070, 41.59.070 and [41.59].080; WAC 391-25-350 is RCW 28B.52.030, 34.05.437, 41.56.060, [41.56].070, 41.59.070 and [41.59].080; WAC 391-25-391 and 391-25-410 is RCW 41.56.060; WAC 391-25-430 is RCW 28B.52.030, 41.56.060, [41.56].070 and 41.59.070; WAC 391-25-470, 391-25-490, 391-25-510, 391-25-550 and 391-25-590 is RCW 28B.52.030, 41.56.060 and 41.59.070; WAC 391-35-010, 391-35-020, 391-35-030 and 391-35-050 is RCW 34.05.413, 41.56.060 and 41.59.080; WAC 391-35-080 is RCW 34.05.431; WAC 391-35-110 is RCW 34.05.070; WAC 391-35-170 is RCW 34.05.437, 41.56.060 and 41.59.080; WAC 391-35-300 is RCW 41.59.010 and [41.59].020; WAC 391-35-310 is RCW 41.56.430; WAC

391-45-030 and 391-45-050 is RCW 28B.52.065, 34.05.413, 41.56.160 and 41.59.150; WAC 391-45-110 is RCW 28B.52.065, [28B.52].073, 34.05.419, 41.56.140, [41.56].150 and 41.59.140; WAC 391-45-130 is RCW 28B.52.065, 41.56.160 and 41.59.150; WAC 391-45-170 is RCW 28B.52.065, 34.05.434, 41.56.160 and 41.59.150; WAC 391-45-190 is RCW 28B.52.065, 41.56.160 and 41.59.150; WAC 391-45-260 is RCW 34.05.431, 41.56.160 and 41.59.150; WAC 391-45-290 is RCW 34.05.437, 41.56.160 and 41.59.150; WAC 391-45-431 is RCW 41.56.160; WAC 391-55-010 is RCW 28B.52.060, 34.05.413 and 41.56.100; WAC 391-55-090 is RCW 5.60.072; WAC 391-55-200 is RCW 41.56.450 and [41.56].492; WAC 391-55-205, 391-55-210, 391-55-215, 391-55-220, 391-55-225, 391-55-230, 391-55-235, 391-55-240, 391-55-245 and 391-55-255 is RCW 41.56.450; WAC 391-55-315 and 391-55-345 is RCW 41.59.120; WAC 391-65-030 and 391-65-050 is RCW 34.05.413 and 41.56.125; WAC 391-65-110 and 391-65-130 is RCW 41.56.125; WAC 391-95-090 and 391-95-110 is RCW 28B.52.045, 34.05.413, 41.56.122 and 41.59.100; WAC 391-95-170 is RCW 28B.52.045, 34.05.431, [34.05].434, 41.56.122 and 41.59.100; WAC 391-95-230 is RCW 28B.52.045, 34.05.437, 41.56.122 and 41.59.100; and WAC 391-95-270 is RCW 28B.52.045, 34.05.464, 41.56.122, and 41.59.100.

**Summary:** Examples of proposed changes include rules covering the agency's forms, number of copies of documents filed with the agency, filing of papers, processing of representation cases, and bargaining unit structure for extra-curricular school district positions, classified employees of institutions of higher education, and employees eligible for interest arbitration.

**Reasons Supporting Proposal:** Since the commission's rules were last amended in 1990, numerous changes in statutes and agency procedures have taken place.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Mark S. Downing, Rules Coordinator, 603 Evergreen Plaza Building, (360) 753-2955.

**Name of Proponent:** Agency [Public Employment Relations Commission], governmental.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** The agency is proposing that these rule changes be adopted.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** These housekeeping rule changes are designed to make the agency's rules easier to read, clearer, and consistent with collective bargaining statutes. Other changes will formalize certain long-standing case precedents and will provide a better understanding of agency internal procedures.

**Proposal Changes the Following Existing Rules:** Examples of changes include that the filing of documents for adjudicative proceedings under the APA will be by actual receipt, while papers for nonadjudicative proceedings will also be accepted by electronic telefacsimile transmission. The mailing address of the agency's Olympia and branch offices are updated. Case precedent covering the time for filing representation petitions where employees have previously failed to select an exclusive bargaining representative is formalized. The agency's prehearing procedure in

representation cases, often resulting in an investigation statement issued in lieu of an election or cross-check agreement, is codified to explain existing agency procedure. The agency's "70% standard" for directing a cross check is being proposed as a rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Agency rules only affect public employees and unions representing public employees, and do not impose costs on profit-making businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Agency rules are excepted by RCW 34.05.328 (5)(a)(i) from the provisions of RCW 34.05.328.

Hearing Location: Large Auditorium, Main Terminal, Sea-Tac International Airport, on February 29, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sally J. Iverson, QCR Coordinator by two weeks before hearing, (360) 664-3135.

Submit Written Comments to: Mark S. Downing, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504-0919, FAX (360) 586-7091, by February 27, 1996.

Date of Intended Adoption: February 29, 1996.

January 23, 1996  
Marvin L. Schurke  
Executive Director

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-001 Application and scope of chapter 391-08 WAC.** Chapter 391-08 WAC has been added to the Washington Administrative Code by the public employment relations commission pursuant to the authority of section 12, chapter 288, Laws of 1975 1st ex. sess. (RCW 41.59.110); sections 14 and 20, chapter 296, Laws of 1975 1st ex. sess. (RCW 28B.52.080 and 41.56.040); and section 3, chapter 5, Laws of 1975 2nd ex. sess. (RCW 41.58.050), to promulgate comprehensive and uniform rules for practice and procedure before the agency. The provisions of chapter 1-08 WAC shall not be applicable to proceedings before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapters 391-25, 391-35, 391-45 and 391-95 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070, 391-25-090, 391-35-050, 391-45-050, and 391-95-110;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-110, which is supplanted by detailed requirements in WAC 391-08-120;

(d) WAC 10-08-120, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(e) WAC 10-08-140, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(f) WAC 10-08-150, which is supplanted by detailed requirements in WAC 391-08-315;

(g) WAC 10-08-211, which is supplanted by detailed requirements in WAC 391-25-390, 391-25-590, 391-35-210, 391-35-230, 391-45-350, 391-45-370, 391-95-270, and 391-95-280; and

(h) WAC 10-08-230, which is supplanted by detailed requirements in WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, 391-25-270, 391-35-070, ((391-35-140)) 391-35-080, 391-45-070, 391-45-090, 391-45-260, and ((391-95-200)) 391-95-170.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

In the event of a conflict between a general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-030 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.** No former member of the commission, former employee of the agency or former member of the attorney general's staff assigned to represent the agency shall, at any time after severing his or her employment with the agency or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his or her employment with the agency.

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-040 Appearance and practice before agency—Former employee as witness.** Except upon the express written consent of the commission, no former member of the commission, former employee of the agency or former member of the attorney general's staff assigned to represent the agency shall, at any time after severing his or her employment with the agency or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his or her employment with the agency.

AMENDATORY SECTION (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

WAC 391-08-120 (~~(Service of process—)~~) Filing and service of papers. (~~(+)~~)

FILING OF PAPERS FOR ADJUDICATIVE PROCEEDINGS

(1) Filing of documents with the agency for adjudicative proceedings under the Administrative Procedure Act (cases under chapters 391-25, 391-35, 391-45 and 391-95 WAC) shall be deemed complete upon actual receipt of the original document and any required copies during office hours at the agency office designated in this rule. Electronic telefacsimile transmissions shall not be accepted as filing for such documents, unless RCW 34.05.010(6) or WAC 10-08-110 is amended to permit filings by electronic telefacsimile transmission.

(a) Petitions or complaints to initiate adjudicative proceedings shall be filed in the Olympia office;

(b) Documents to be filed with the executive director or with the agency generally shall be filed in the Olympia office;

(c) Documents to be filed with a presiding officer can be filed in the Olympia office or in the office of the presiding officer;

(d) Documents to be filed with the commission, including any petitions for review or objections, shall be filed in the Olympia office.

SUBMISSION OF PAPERS FOR NONADJUDICATIVE PROCEEDINGS

(2) Submission of papers to the agency for cases that are not adjudicative proceedings under the Administrative Procedure Act (cases under chapters 391-55 and 391-65 WAC) shall be deemed complete upon actual receipt of the original paper and any required copy during office hours at the Olympia office or at the office of the agency staff member assigned to process the case. Papers will also be accepted by electronic telefacsimile transmission in cases under this subsection, with the following limitations:

(a) The maximum length of papers acceptable for submission by electronic telefacsimile transmission is ten pages;

(b) The party sending papers by electronic telefacsimile transmission is responsible for confirming that the material was complete and legible when received by the agency;

(c) An agency staff member processing the case may require mailing of the original papers to the agency;

(d) Electronic telefacsimile transmission shall not be used to submit authorization cards for purposes of a showing of interest or cross-check under chapter 391-25 WAC.

SERVICE ON OTHER PARTIES

(3) All notices, pleadings, and other papers filed with the agency or the presiding officer shall be served upon all counsel and representatives of record and upon parties not represented by counsel or upon their agents designated by them or by law. Service shall be by one of the following methods:

(a) Service may be made personally, in the manner provided in RCW 4.28.080;

~~((2)) (b) Service (shall be made personally or, unless otherwise provided by law,) by first class, registered, or certified mail((-)) shall be regarded as completed upon deposit in the United States mail properly stamped and addressed.~~

~~(c) Service by telegraph((- by electronic telefacsimile transmission and same day mailing of copies;)) or by commercial parcel delivery company((-~~

~~(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by telegraph)) shall be regarded as completed when deposited with a telegraph company or parcel delivery company properly addressed and with charges prepaid.~~

~~(d) Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile ((device)) device of confirmation of transmission, together with same day mailing of a copy postage prepaid and properly addressed to the person being served. ((Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.~~

~~(4) Papers required to be filed with the agency or with the presiding officer shall be deemed filed upon actual receipt during office hours at:~~

~~(a) The Olympia office of the commission for any papers required to be filed with the commission, the executive director, or the agency generally; or~~

~~(b) The office of the presiding officer or the Olympia office of the commission for any papers required to be filed with the presiding officer.))~~

PROOF OF SERVICE

~~((5)) (4) Where ((proof)) the sufficiency of service is ((required by statute or rule,)) contested, the timely filing of the papers ((with the presiding officer)) under this section, together with one of the following shall constitute proof of service:~~

~~(a) An acknowledgement of service by the person who accepted service.~~

~~(b) A certificate signed on the date of service, stating that the person signing the certificate ((did on the date of the certificate serve)) personally served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names) at dates, times and places specified in the certificate.~~

~~(c) A certificate signed on the date of service, stating that the person signing the certificate ((did on the date of the certificate serve)) completed service of the papers upon all parties of record in the proceeding by:~~

~~(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or~~

~~(ii) ((Telegraphing a copy thereof)) Depositing a copy thereof with a telegraph or parcel delivery company named in the certificate, properly addressed with charges prepaid, to each party to the proceeding or to his or her attorney or authorized agent; or~~

~~(iii) Transmitting a copy thereof by electronic telefacsimile ((device)) device, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent((-or~~

(iv) ~~Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company).~~

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-180 Service of process—Continuances.**

(1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, showing good and sufficient cause therefor.

(2) A request for a continuance made prior to the hearing date may be oral or ~~((in writing))~~ written and shall state that the party seeking the continuance has notified all other parties of the request and that either all other parties agree to the continuance or that all parties do not agree to the continuance. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

**NEW SECTION**

**WAC 391-08-650 Case docketing and numbering.**

The agency maintains a computerized case docketing system which is used to track and manage all requests for the dispute resolution service provided by the agency.

(1) Each case processed by the agency is identified by a unique number consisting of four components.

(a) The first component, consisting of a five-digit number, indicates the sequential number of cases docketed since the agency commenced operations on January 1, 1976.

(b) The second component, consisting of one alphabetic code, indicates the type of dispute being processed, as follows:

"A" indicates a grievance arbitration proceeding under chapter 391-65 WAC, wherein an agency staff member is to interpret or apply an existing collective bargaining agreement.

"C" indicates a unit clarification proceeding under chapter 391-35 WAC.

"D" indicates a declaratory ruling or declaratory order proceeding under the Administrative Procedure Act, and formerly included proceedings under chapter 391-95 WAC concerning assertion of the right of nonassociation by employees subject to union security obligations.

"E" indicates a representation proceeding under chapter 391-25 WAC.

"F" indicates a fact-finding proceeding under chapter 391-55 WAC, to recommend the terms of a collective bargaining agreement.

"G" indicates a grievance mediation proceeding under chapter 391-55 WAC after January 1, 1996, concerning the interpretation or application of an existing collective bargaining agreement.

"I" indicates an interest arbitration proceeding under chapter 391-55 WAC, to establish the terms of a collective bargaining agreement.

"M" indicates a mediation proceeding under chapter 391-55 WAC, limited after January 1, 1996, to disputes concerning the terms of a collective bargaining agreement.

"N" indicates a proceeding under chapter 391-95 WAC after January 1, 1996, concerning assertion of the right of nonassociation by employees subject to union security obligations.

"P" indicates a request for a list of arbitrators from the commission's dispute resolution panel for grievance arbitration proceedings under chapter 391-65 WAC.

"U" indicates an unfair labor practice proceeding under chapter 391-45 WAC.

(c) The third component, consisting of a two-digit number, indicates the calendar year in which the case is docketed.

(d) The fourth component, consisting of a five-digit number, indicates the sequential number of the case within the type of dispute identified in the second component, since the agency commenced operations on January 1, 1976.

(2) Cases involving various departments or divisions of an employer entity are docketed under the name of the employer entity.

(3) Cases filed by an employee organization or labor organization are docketed under the name of the organization, even if employees represented by that organization are named individually in the pleadings or are affected by the outcome of the proceedings.

(4) Cases filed by two or more individual employees are docketed separately for each employee.

(5) Cases filed by an individual employee involving multiple respondents are docketed separately for each respondent.

**NEW SECTION**

**WAC 391-08-670 Decision numbering—Citation of cases—Indexing of decisions.**

(1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of two or three components, as follows:

(a) The first component, consisting of a number, indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency commenced operations on January 1, 1976.

(b) The second component (where appropriate) consisting of an alphabetic code in ascending alphabetical order, indicates the second and subsequent decisions issued in the case to which the numerical component was originally assigned.

(c) The third component, consisting of a four-letter alphabetic code, indicates the statute under which the decision was issued:

"CCOL" indicates cases decided under chapter 28B.52 RCW, which is titled: "Collective Bargaining—Academic Personnel in Community Colleges."

"EDUC" indicates cases decided under chapter 41.59 RCW, which is titled: "Educational Employment Relations Act."

"MRNE" (no longer in use) was formerly used to indicate cases decided under chapter 47.64 RCW, relating to the Washington state ferries system.

"PECB" indicates cases decided under chapter 41.56 RCW, which is titled: "Public Employees' Collective Bargaining," including some cases involving port districts.

"PORT" indicates cases decided under chapter 53.18 RCW, which is titled: "Employment Relations—Collective Bargaining and Arbitration" relating to port districts.

"PRIV" (no longer in use) was formerly used to indicate cases decided under chapter 49.08 RCW, relating to private sector employers and employees.

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency shall conform to the formats specified in this section:

**GENERAL RULE:** Citations shall list only the name of the employer (underlined), the word "Decision" followed by the decision number, and the statute and year the decision was issued (in parenthesis). Examples:

City of Roe, Decision 1234 (PECB, 1992)

City of Roe, Decision 1234-A (PECB, 1993)

City of Roe, Decision 1234-B (PECB, 1994)

**EXCEPTION 1:** For decisions being cited within the first year following their issuance, the full date of issuance may be set forth. Example:

City of Roe, Decision 1234-C (PECB, December 15, 1995)

**EXCEPTION 2:** For decisions in which an employee organization or labor organization was named as the respondent in an unfair labor practice case, the citation shall list the name of the union (in parenthesis) following the name of the employer. Example:

City of Roe (Doe Union), Decision 2345 (PECB, 1995)

(3) The agency encourages the publication and indexing of its decisions by private firms, but does not contribute financial support to any such firm and declines to declare any private firm as the "official reporter" of agency decisions.

(4) The agency uses a commercially published index of its decisions, along with commercially produced computer assisted research tools, in its own operations. The agency makes those indexes available to the public in its offices, to satisfy the requirements of RCW 42.17.260(5).

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-820 Agency offices.** (1) The agency maintains its principal office in the city of Olympia, Washington ((at ~~603 Evergreen Plaza, 711 Capitol Way, Olympia, Washington 98504.~~ The mailing address of the Olympia office is: ~~603 Evergreen Plaza, FJ 61, Olympia, Washington 98504.~~

(2) ~~The agency maintains a branch office at West 55 Mission, Suite 1, Spokane, Washington 99201).~~

(a) The street address of the Olympia office is:

Public Employment Relations Commission

603 Evergreen Plaza  
711 Capitol Way  
Olympia, Washington 98504-0919.

(b) The mailing address of the Olympia office is:

Public Employment Relations Commission  
P.O. Box 40919  
Olympia, Washington 98504-0919.

(2) The agency maintains a branch office at:

Public Employment Relations Commission  
Suite 150  
9757 Juanita Drive NE  
Kirkland, Washington 98034.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-001 Scope—Contents—Other rules.**

This chapter governs proceedings before the public employment relations commission on petitions for investigation of questions concerning representation of employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC<sub>2</sub>, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-25 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070 and 391-25-090;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by detailed requirements in WAC 391-25-390 and 391-25-590; and

(d) WAC 10-08-230, which is supplanted by detailed requirements in WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, and 391-25-270.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

**NEW SECTION**

**WAC 391-25-011 Special provision—Classified employees of institutions of higher education.** The commission acquires jurisdiction over bargaining units of

PROPOSED

classified employees of institutions of higher education by a voluntary recognition process consisting of two stages.

(1) The commission acquires limited jurisdiction over a bargaining unit of classified employees of an institution of higher education as defined in RCW 41.56.030(8), upon the filing by the employer and an exclusive bargaining representative certified under chapter 41.06 RCW, of a notice of intent pursuant to RCW 41.56.201 (1)(a).

(a) The executive director shall docket a representation case to preserve a record of the transaction, but shall take no other steps to determine a question concerning representation under this chapter.

(b) The scope of bargaining and conduct of the parties in their negotiations for an initial collective bargaining agreement under chapter 41.56 RCW shall be regulated by the commission under chapter 391-45 WAC.

(c) During the parties' negotiations for an initial collective bargaining agreement under chapter 41.56 RCW, the Washington personnel resources board retains jurisdiction to determine appropriate bargaining units and to certify exclusive bargaining representatives under chapter 41.06 RCW.

(2) The commission acquires full jurisdiction over a bargaining unit of classified employees of an institution of higher education which has filed a notice of intent under this section, if the parties execute an initial collective bargaining agreement recognizing the notice of intent.

(a) The transfer of jurisdiction is effective on the first day of the month following the month during which the parties provide notice that they have executed an initial collective bargaining agreement under RCW 41.56.201 (1)(c).

(b) The executive director shall dismiss the representation case docketed upon the filing of the notice of intent, on the basis of "voluntary recognition."

(3) The jurisdiction of the commission ceases if the commission finds that the parties have reached an impasse in negotiations for an initial collective bargaining agreement under chapter 41.56 RCW.

(a) A finding of impasse shall not be made if unfair labor practice proceedings concerning the bargaining unit are pending under subsection (1)(b) of this section.

(b) The executive director shall dismiss the previously docketed representation case as "withdrawn."

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-030 Petition—Time for filing.** In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the agency covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed:

(a) Not less than twelve months following the date of the certification of an exclusive bargaining representative; or

(b) Not less than twelve months following the date of the latest election or cross-check in which the employees failed to select an exclusive bargaining representative.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-050 Petition form—Number of copies—Filing—Service.** Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and ~~((three copies))~~ one copy of the petition shall be filed with the agency at its Olympia office. The party filing the petition shall serve a copy on the employer and on each employee organization named in the petition as having an interest in the proceedings.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-070 Contents of petition.** Each petition shall contain:

(1) The name and address of the employer and, if known, the name, address and telephone number of the employer's principal representative in matters concerning relationships between the employer and its employees.

~~((A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.))~~ The name and address of the petitioner, and the name, address and telephone number of its principal representative.

(3) ~~((The ((names)) name of any organization which currently represents the employees involved and, if known, the ((addresses)) name, address and telephone number((s)) of the principal representatives of ((any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate)) that organization.~~

(4) An indication that:

(a) There has never been a collective bargaining agreement covering the employees involved; or

(b) A copy of the current or most recent applicable collective bargaining agreement is attached.

(5) A statement that the original petition is accompanied by a showing of interest required by WAC 391-25-110.

(6) Identification of:

(a) The employer's principal business;

(b) The employer department or division involved;

(c) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions; and

(d) The approximate number of employees in that bargaining unit.

(7) A statement that:

(a) The ~~((employer declines, after having been requested to do so, to recognize the))~~ petitioner claims it represents a majority of the employees involved, and requests certification as the exclusive bargaining representative of the

employees in the bargaining unit which the petitioner claims to be appropriate~~(s);~~; or

(b) The employees in the bargaining unit which the petitioner claims to be appropriate ~~((wish))~~ desire to change their exclusive bargaining representative, and to designate the petitioner as their exclusive bargaining representative; or

(c) The employees in the bargaining unit do not ~~((wish))~~ desire to be represented by ~~((an))~~ any employee organization.

~~((5))~~ (8) Any other relevant facts.

~~((6))~~ The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

~~((7))~~ (9) The signature and, if any, the title of the petitioner or its representative, and the date of signature.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-090 Contents of petition filed by employer.** ~~((Each))~~ (1) Where an employer has been presented with one or more demands for recognition of an exclusive bargaining representative of previously unrepresented employees, it may file a petition to obtain a determination of the question concerning representation. A petition filed by an employer under this subsection shall contain all of the information required by WAC 391-25-070, except ~~((for that required by WAC 391-25-070(4), and shall conform to the following additional requirements:~~

~~(1) Each petition filed by an employer))~~ as follows:

(a) The petition shall contain a statement that the employer has been presented with a demand by an organization seeking recognition as the exclusive bargaining representative of the employees in the bargaining unit described in the petition.

~~((2))~~ (b) WAC 391-25-110 shall not be applicable to ~~((such petitions.~~

~~(3) Where the status of an incumbent exclusive bargaining representative is questioned,))~~ petitions filed under this subsection.

(c) The employer shall attach copies of any written demand(s) for recognition or other correspondence pertaining to the claimed question concerning representation.

(2) Where an employer has a good faith belief that a majority of its employees in an existing bargaining unit no longer desire to be represented by their incumbent exclusive bargaining representative, it may file a petition to obtain a determination of the question concerning representation. A petition filed by an employer under this subsection shall contain all of the information required by WAC 391-25-070 except as follows:

(a) The employer shall attach ~~((such))~~ affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees.

(b) To constitute a basis for a good faith doubt under this paragraph, signature documents provided to the employer by employees must be in a form which would qualify as supporting evidence under WAC 391-25-110 if filed by the employees directly with the commission.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-110 Supporting evidence.** The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of original or legible copies of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. ~~((Such authorization cards))~~ Authorization documents shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the agency, whichever is later.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-130 List of employees.** Within ten days following a request by the agency, the employer shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the employer shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following granting of a motion for intervention, the employer shall, upon request, provide a copy of the list of names and addresses to the intervenor.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-140 Notice to employees.** The employer shall post a notice to employees, in the form specified by the commission, advising of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of ~~((such))~~ the notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall remain posted until a certification or interim certification is issued in the proceeding.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-170 Intervention—By incumbent representative.** An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention shall be considered if made:

(1) After the close of the hearing on the petition ~~((or))~~;

(2) More than seven days after the filing and posting of an election agreement or cross-check agreement; or

(3) More than seven days after the posting of an investigation statement.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-190 Intervention—By organization other than incumbent.** An organization not covered by WAC 391-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the motion for intervention or the filing of such evidence with the agency, whichever is later. The showing of interest shall be made confidentially to the agency at or before the time the motion for intervention is made: *Provided, however,* That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the agency may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made:

- (1) After the close of the hearing on the petition (~~((€))~~);
- (2) More than seven days after the filing and posting of an election agreement or cross-check agreement; or
- (3) More than seven days after the posting of an investigation statement.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-220 ((Prehearing)) Investigation conferences.** (1) The (~~((€))~~) agency routinely conducts (~~((prehearing))~~) conferences (~~((to discuss))~~) with the parties (~~((all contested))~~), to investigate a representation petition according to a checklist provided to the parties.

(a) The issues (~~((of law and fact))~~) which may properly arise in representation cases(~~((-))~~) include:

- (i) The identification of the parties;
- (ii) The jurisdiction of the commission;
- (iii) The qualification of the petitioner and any intervenor(s) for certification as exclusive bargaining representative;
- (iv) The existence of a question concerning representation;
- (v) The timeliness of the petition;
- (vi) The existence of blocking charges under WAC 391-25-370;
- (vii) The propriety of the petitioned-for bargaining unit;
- (viii) The list of employees eligible to vote or be considered in determining a question concerning representation, and cut-off date for eligibility; and
- (ix) The method and arrangements for determining a question concerning representation.

(b) The investigation conference may be conducted by telephone conference call, or in-person by agency staff;

(c) The parties are encouraged to reach binding stipulations on all issues during the course of the (~~((prehearing))~~) investigation conference. (~~((Such))~~)

(2) The stipulations (~~((are embodied))~~) made by the parties during an investigation conference may be set forth in an investigation statement issued in lieu of an election agreement or cross-check agreement.

(a) Immediately upon receipt of an investigation statement, the employer shall post it in conspicuous places on its premises where notices to affected employees are usually posted, and it shall remain posted for at least seven days thereafter.

(b) An investigation statement shall be binding on the parties unless written objections are filed with the agency and served on other parties within ten days following issuance of the statement.

(3) When all conditions precedent to an election or cross-check in an appropriate bargaining unit have been met, the executive director shall proceed with the determination of the question concerning representation. Objections by parties named in the investigation statement shall be limited to matters relating to specific conduct affecting the results of an election.

(4) The parties may set forth stipulations in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-230 Election agreements.** Where an employer and all other parties agree on a representation election, they may file an election agreement with the executive director. (~~((Such))~~) An election agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in (~~((such))~~) that unit.

(4) A statement by (~~((at))~~) the parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by (~~((at))~~) the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that (~~((at))~~) the parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut-off date for the election. If the (~~((parties request that the))~~) election is to be conducted by mail ballot, the list shall include the last



known address of each of the employees eligible to vote. If no eligibility cut-off date is specified by the parties, the eligibility cut-off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the ~~((location, the day or days of the week and the time or times of day for the conduct of))~~ arrangements for conducting the election ~~((or that the election be conducted by mail ballot))~~.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the agency at its Olympia office, and copies shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days after it is filed with the agency ~~((ten days after it is deposited in the United States mail addressed to the agency))~~.

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the executive director shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-250 Cross-check agreements.** Where only one organization is seeking certification as the representative of unrepresented employees, the employer and the organization may file a cross-check agreement with the executive director. ~~((Such))~~ A cross-check agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) ~~((The))~~ A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in ~~((such))~~ that unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the employer.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the ~~((time and place where the records to be cross-checked can be made available to the agency))~~ arrangements for conducting the cross-check.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the agency at its Olympia office, and copies thereof shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the agency ~~((ten days after it is deposited in the United States mail addressed to the agency))~~.

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the executive director shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-350 Hearings—Nature and scope.** Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission and the executive director may discharge their duties under the pertinent statutes and these rules. Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing. A party which desires to have a brief or written argument considered shall file an original and one copy with the hearing officer, and shall serve copies on all other parties to the proceeding.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-370 Blocking charges—Suspension of proceedings—Request to proceed.** (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the executive director may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the executive director. Such request to proceed shall identify, by case

number, the representation proceedings for which it is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the executive director shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the ~~((filing of an election agreement or))~~ issuance of a ~~((direction))~~ notice of election, the executive director shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 391-25-590.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-391 Special provision—Public employees.** Where only one organization is seeking certification as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that ~~((such))~~ the organization has been authorized by ~~((a substantial majority))~~ in excess of seventy percent of the employees to act as their representative for the purposes of collective bargaining, ~~((and the executive director finds that the conduct of an election would unnecessarily and unduly delay the determination of the question concerning representation with little likelihood of altering the outcome,))~~ the executive director may issue a direction of cross-check. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-410 Cross-check of records.** (1) Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the agency original or legible copies of individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that ((such)) the employees authorize the named organization to represent them for the purposes of collective bargaining, or shall submit to the agency membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing.

(2) The agency shall honor a valid revocation of authorization contained in an individual card or letter signed by the employee and filed with the agency by the employee.

(3) The employer shall make available to the agency original or legible copies of employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit.

(4) Prior to the commencement of the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files

a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter.

(5) All cross-checks shall be by actual comparison of records submitted by the parties. The agency shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the agency officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-430 Notice of election.** When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The deadline for return of mail ballots or the date(s), hours and polling place(s) for ((the)) an on-site election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days ~~((prior to the opening of the polls)), and shall remain posted until a tally of ballots has been issued.~~ In computing such period, the day of posting shall be counted, but the day on which the polls are opened for an on-site election shall not be counted. ((The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.))

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-470 Mail ballot election procedures—Electioneering—Objectionable conduct.** ~~((1) Employers and organizations are prohibited from making))~~ The executive director shall have discretion to conduct elections by mail ballot procedures designed to preserve the secrecy of employee voting. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. A notice and ballot materials shall be mailed by the agency to each eligible voter, and no less than fourteen days shall be provided between the date on which ballot materials are mailed to eligible employees and the deadline for return of the ballots.

(1) The following prohibitions apply to assure appropriate conditions for employees to cast their ballots:

(a) The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice in an election is prohibited.

(b) The use of deceptive campaign practices improperly involving the commission and its processes is prohibited.

(c) The use of forged documents is prohibited.

(d) Coercion or intimidation of eligible voters, or any threat of reprisal or force or promise of benefit to eligible voters, is prohibited.

(e) Changes of the status quo concerning wages, hours or other terms and conditions of employment of employees in the bargaining unit are prohibited during the period that a petition is pending before the commission under this chapter.

(f) Misrepresentations of fact or law are prohibited. To set aside an election, a misrepresentation must:

(i) Be a substantial misrepresentation of fact or law regarding a salient issue;

(ii) Be made by a person having intimate knowledge of the subject matter, so that employees may be expected to attach added significance to the assertion;

(iii) Occurring at a time which prevents others from effectively responding; and

(iv) Reasonably viewed as having had a significant impact on the election, whether a deliberate misrepresentation or not.

(g) Election speeches on the employer's time to massed assemblies of employees

(~~(a) Within~~) are prohibited during the period beginning twenty-four hours before the scheduled (~~time for the opening of the polls for an election conducted under "in person" voting procedures; or~~

(~~b) Within the period beginning with~~) date for the issuance of ballots to employees (~~for an election conducted under "mail ballot" voting procedures~~) and continuing through the tally of ballots.

(2) (~~There shall be no electioneering at or about the polling place during the hours of voting.~~) Each party may be represented by observers of its own choosing at the tally of ballots.

(3) Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

WAC 391-25-490 On-site election procedures— (~~(Balloting) Electioneering—Objectionable conduct.~~ (~~All elections shall be by secret ballot.~~) The executive director shall have discretion to conduct an election by on-site balloting procedures designed to preserve the secrecy of employee voting, if the circumstances of a particular case indicate that an on-site election would be more efficient or appropriate than a mail ballot election. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. (~~The agency may conduct elections by mail ballot when it appears that an election by "in person" procedures would result in undue delay, or would effectively deprive some eligible employees of their opportunity to vote. If mail balloting is used, the notice required by these rules shall be mailed to each eligible voter and no less than ten days shall be provided between the date on which ballot materials are mailed to eligible employees and the deadline for return of the ballots.~~)

(1) The following prohibitions apply to assure appropriate conditions for employees to cast their ballots.

(a) The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice in an election is prohibited.

(b) The use of deceptive campaign practices improperly involving the commission and its processes is prohibited.

(c) The use of forged documents is prohibited.

(d) Coercion or intimidation of eligible voters, or any threat of reprisal or force or promise of benefit to eligible voters, is prohibited.

(e) Changes of the status quo concerning wages, hours or other terms and conditions of employment of employees in the bargaining unit are prohibited during the period that a petition is pending before the commission under this chapter.

(f) Misrepresentations of fact or law are prohibited. To set aside an election, a misrepresentation must:

(i) Be a substantial misrepresentation of fact or law regarding a salient issue;

(ii) Be made by a person having intimate knowledge of the subject matter, so that employees may be expected to attach added significance to the assertion;

(iii) Occurring at a time which prevents others from effectively responding; and

(iv) Reasonably viewed as having had a significant impact on the election, whether a deliberate misrepresentation or not.

(g) Election speeches on the employer's time to massed assemblies of employees are prohibited during the period beginning twenty-four hours before the scheduled time for the opening of the polls and continuing through the tally of ballots.

(h) There shall be no electioneering at or about the polling place during the hours of voting.

(2) Each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe: *Provided, however,* That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

(3) Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

AMENDATORY SECTION (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

WAC 391-25-510 Challenged ballots. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right to cast a challenged ballot. The election officer shall not have authority to resolve challenges (~~at the polls~~), and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no

ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall ~~((after the close of the polls,))~~ ascertain the position of each party as to each challenged ballot and shall include ~~((such))~~ the information in his or her report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. The executive director shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the executive director as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the executive director are sufficient in number to affect the results of the election, the matter shall be transferred to the commission for its determination under the provisions of WAC 391-25-670.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-550 Tally sheet.** ~~((Upon closing the polls,))~~ The election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

**AMENDATORY SECTION** (Amending WSR 90-06-072, filed 3/7/90, effective 4/7/90)

**WAC 391-25-590 Filing and service of objections.** Objections must be filed within seven days after the tally has been served under WAC 391-25-410 or under WAC 391-25-550 ~~((any party may file objections with the commission)).~~

(1) Objections filed by the petitioner, the employer or any intervenor may consist of:

~~((1))~~ (a) Designation of specific conduct improperly affecting the results of the election ~~((by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters,))~~; and/or

~~((2))~~ (b) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

(2) Objections filed by individual employees are limited to conduct or procedures which prevented them from casting a ballot.

(3) Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed.

(4) The original and three copies of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the

other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

**AMENDATORY SECTION** (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-001 Scope—Contents—Other rules.**

This chapter governs proceedings before the public employment relations commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-35 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-35-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by detailed requirements in WAC 391-35-210 and 391-35-230; and

(d) WAC 10-08-230, which is supplanted by detailed requirements in WAC 391-35-070 and ((391-35-140)) 391-35-080.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

**AMENDATORY SECTION** (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-010 Petition for clarification of an existing bargaining unit—Who may file.** ~~((In the absence of a question concerning representation,))~~ A petition for clarification of an existing bargaining unit may be filed by the employer, the exclusive bargaining representative, or their agents, or by the parties jointly.

**AMENDATORY SECTION** (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-020 Petition—Time for filing.** (1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) ~~((Except as provided in subsection (1) of this section.))~~ Where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit filed by a party to the collective bargaining agreement will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings;

(i) It put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure; and

(ii) It filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

(3) Disputes concerning the allocation of employees or positions between two or more bargaining units may be filed at any time.

AMENDATORY SECTION (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-030 Petition form—Number of copies—Filing—Service.** Each petition for clarification of an existing bargaining unit shall be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 391-35-050. The original and ~~((three copies))~~ one copy of the petition shall be filed with the agency at its Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

AMENDATORY SECTION (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-050 Contents of petition.** Each petition for clarification of an existing bargaining unit shall contain:

(1) Information identifying the parties and their relationships, including:

(a) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining;

~~((2))~~ (b) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative;

~~((3))~~ (c) The employer's principal business;

(d) The parties' contractual relationship, indicating that:

(i) The parties' have never had a contract; or

(ii) A copy of the current or most recent applicable collective bargaining agreement is attached;

(e) The status of negotiations between the parties, indicating that:

(i) The parties' contract is closed; or

(ii) The parties are currently in contract negotiations;

(f) The description of the existing bargaining unit, specifying inclusions and exclusions ~~((and the));~~

(g) The number of employees in ~~((such))~~ the bargaining unit;

~~((4))~~ Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement, and the); and

(h) The history of ~~((any modifications of))~~ the bargaining unit ~~((subsequent thereto)),~~ including at least the approximate date of its creation.

~~((5))~~ A description ~~((2))~~ Identification of the issues of the proposed clarification, including listing the position(s), classification(s) or group(s) ~~((#))~~ at issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group, and identification of the party proposing that the present status be changed.

~~((6))~~ The ~~((3))~~ Identification of other interested organizations, including names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the contracts, if any, covering such employees.

~~((7))~~ A statement of the reasons for the proposed clarification.

~~((8))~~ (4) Any other relevant facts.

~~((9))~~ (5) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s), and the date of signature.

AMENDATORY SECTION (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-080 Prehearing conferences.** The hearing officer has discretion to conduct a prehearing conference to discuss with the parties all issues of law, fact, and procedure which may arise in unit clarification cases. The prehearing conference shall be conducted pursuant to WAC 10-08-130. The parties are encouraged to reach binding stipulations on such matters during the course of the prehearing conference.

AMENDATORY SECTION (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-110 ~~((Consolidation))~~ Coordination of proceedings.** (1) A unit clarification petition cannot be processed if a question concerning representation exists. If a ~~((proceeding initiated by a))~~ petition for clarification under ~~((WAC 391-35-010))~~ this chapter is pending at the same time as a ~~((proceeding))~~ petition under chapter 391-25 WAC involving all or any part of the same bargaining unit ~~((initiated by a petition for investigation of a question concerning representation filed pursuant to WAC 391-25-010)),~~ the proceedings under this chapter shall be ~~((consolidated))~~ suspended, and all issues concerning the description of the bargaining unit shall be resolved in the ~~((consolidated))~~ proceedings under chapter 391-25 WAC.

(2) A unit clarification proceeding may control or be controlled by an unfair labor practice proceeding. If a petition for clarification under this chapter is pending at the same time as a complaint under chapter 391-45 WAC involving all or any part of the same bargaining unit, the executive director shall have discretion to withhold processing of one of the related proceedings pending the outcome of the other related proceeding.

**AMENDATORY SECTION** (Amending WSR 90-06-073, filed 3/7/90, effective 4/7/90)

**WAC 391-35-170 Hearings—Nature and scope.**

Hearings shall be public and shall be limited to matters concerning the determination of the petition for clarification of an existing bargaining unit. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission or the executive director may discharge their duties under the pertinent statutes and these rules. Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing. A party which desires to have a brief or written argument considered shall file an original and one copy with the hearing officer, and shall serve copies on all other parties to the proceeding.

**NEW SECTION**

**WAC 391-35-300 School district employees.** A collective bargaining relationship cannot lawfully be maintained under the Educational Employment Relations Act, chapter 41.59 RCW, with respect to school district jobs for which a professional education certificate is not required by chapter 28A.410 RCW, as implemented through rules adopted by the state board of education and the office of the superintendent of public instruction, or by established practice or written policy of the employing school district. Any collective bargaining rights of employees performing school district jobs not requiring a professional education certificate are regulated by the Public Employees' Collective Bargaining Act, chapter 41.56 RCW.

**NEW SECTION**

**WAC 391-35-310 Employees eligible for interest arbitration.** Due to the separate impasse resolution procedures established for them, employees occupying positions eligible for interest arbitration shall not be included in bargaining units which include employees who are not eligible for interest arbitration.

**AMENDATORY SECTION** (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

**WAC 391-45-001 Scope—Contents—Other rules.** This chapter governs proceedings before the public employment relations commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-45-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to

proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by detailed requirements in WAC 391-45-350 and 391-45-370; and

(d) WAC 10-08-230, which is supplanted by detailed requirements in WAC 391-45-070, 391-45-090, and 391-45-260.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of existing bargaining units.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

**AMENDATORY SECTION** (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

**WAC 391-45-030 Form—Number of copies—Filing—Service.** Charges shall be in writing, in the form of a complaint of unfair labor practices. The original and ~~((three copies))~~ one copy shall be filed with the agency at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

**AMENDATORY SECTION** (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

**WAC 391-45-050 Contents of complaint charging unfair labor practices.** Each complaint shall contain, in separate numbered paragraphs:

(1) Information identifying the parties and their relationships, including:

(a) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining;

(b) The name and address of the employer, organization or other person charged with engaging in, or having engaged in, unfair labor practices (hereinafter referred to as the respondent) and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent; and

(c) The name and address of the party filing the complaint((?)) (hereinafter referred to as the complainant), and the name, address and telephone number of its principal representative.

(2) ~~((The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if~~

~~known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).~~

~~(3))~~ Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

~~((4) A listing))~~ (3) A statement of the remedy sought by the complainant.

(4) The signature and, if any, the title of the person filing the complaint, and the date of signature.

(5) Information concerning the parties' relationships, including:

(a) The employer's principal business;

(b) Identification of the employer department or division in which the dispute arises;

(c) The parties' contractual relationship, indicating that:

(i) The parties have never had a contract; or

(ii) A copy of the current or most recent applicable collective bargaining agreement is attached;

(d) The status of related grievance proceedings between the parties, indicating that:

(i) No grievance has been filed on the dispute involved;  
or

(ii) A grievance on the dispute is being processed under the parties' collective bargaining agreement; or

(iii) An arbitration award has been issued on a related grievance;

(e) The description of the existing bargaining unit, specifying inclusions and exclusions; and

(f) The number of employees in the bargaining unit.

(6) Indication of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

~~((5) A statement of the relief sought by the complainant.~~

~~(6) The signature and, if any, the title of the person filing the complaint.)~~

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-110 ((Initial processing)) Preliminary ruling by executive director. The executive director shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of the applicable statute.

(1) If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons ((therefor, otherwise,)) for that action. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-45-350.

(2) If the complaint is found to state a cause of action for unfair labor practice proceedings before the commission, the executive director shall ((cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-45-350)) set a period for the respondent to file its answer, which shall be not less than ten days following the issuance of the preliminary ruling.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-130 Examiner—Who may act. The executive director shall assign an examiner to conduct further proceedings in the matter, and shall notify the parties of that assignment. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-170 Notice of ((right to answer)) hearing. The examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved by the executive director under WAC 391-45-110. ~~((The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing.))~~ Any such notice of hearing may be amended or withdrawn before the close of the hearing.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-190 Answer—Filing and service. The respondent(s) shall, on or before the date specified therefor in the preliminary ruling or a notice of hearing, file with the ~~((examiner))~~ agency the original and ~~((three copies))~~ one copy of its answer to the complaint, and shall serve a copy on the complainant.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-260 Settlement conference. (1) Prior to hearing, the parties may be requested to participate in a settlement conference conducted by a member of the commission staff other than the assigned examiner. During the course of a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the unfair labor practice dispute. Participation in the settlement conference is voluntary, and the refusal of a party to participate shall not prejudice the nonparticipating party in any manner.

(2) Whether or not a ~~(( ))~~ settlement conference ~~(( ))~~ has been held, the examiner may hold a ~~(( ))~~ prehearing conference ~~(( ))~~ to deal with procedural matters related to the hearing. The prehearing conference will be conducted pursuant to WAC 10-08-130. The parties are encouraged to reach binding stipulations on such matters during the course of the prehearing conference.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-270 Hearings—Nature and scope. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its

own complaint and shall have the burden of proof. During the course of the hearing, the examiner may, upon motion by any party, or on his or her own motion, sequester witnesses. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: *Provided, however,* That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense. Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

**WAC 391-45-290 Briefs and proposed findings.** Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner. The examiner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein. A party which desires to have a brief or written argument considered shall file an original and one copy with the examiner, and shall serve copies on all other parties to the proceeding.

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

**WAC 391-45-330 Withdrawal or modification of examiner decision.** On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within ~~((twenty))~~ ten days following the issuance thereof, if any mistake is discovered therein ~~((or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing))~~: *Provided, however,* That this section shall be inoperative after the filing of a petition for review with the commission.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 391-45-431 Special provision—Public employees.

AMENDATORY SECTION (Amending Order 88-08, filed 5/31/88)

**WAC 391-55-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. Special provisions required for conformity with

a particular statute are set forth in separate rules numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW, port employees (Employment relations—Collective bargaining and arbitration), are set forth in WAC sections numbered one digit greater than the general rule on that subject matter ~~((and in subchapters of rules as follows:))~~.

~~((a))~~ Special provisions relating to interest arbitration for ~~((uniformed personnel within the meaning of RCW 41.56.030(7)))~~ bargaining units under chapter 41.56 RCW are set forth beginning with WAC 391-55-200 ~~((and~~

~~(b))~~ Special provisions relating to fact finding for state patrol personnel within the meaning of RCW 41.56.020 are set forth beginning with WAC 391-55-400).

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter and in a subchapter of rules beginning with WAC 391-55-300.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-010 Resolution of impasses—Request for mediation.** A request for mediation may be made in writing, by electronic telefacsimile transmission, or by telephone, but shall be confirmed in writing if made by telephone. The party or parties requesting mediation shall provide the following information to the agency:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative in the negotiations ~~((;))~~.

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations ~~((;))~~.

(3) ~~((The name and address of the association or other organization, if any, filing the request on behalf of the employer or exclusive representative seeking mediation;))~~ Identification of the employer's principal business.

(4) ~~((A clear and concise statement of the disputed issues and the parties' positions in relation thereto;))~~ The parties' contractual relationship, indicating that:

(a) The parties' have never had a contract; or

(b) A copy of the current or most recent applicable collective bargaining agreement is attached.

(5) A description of the ~~((size and composition of the))~~ bargaining unit involved ~~((;))~~, specifying inclusions and exclusions.

~~((The expiration date of any collective bargaining agreement then in effect or recently expired;~~

~~(7) Any other relevant information; and~~

~~(8))~~ The number of employees in the bargaining unit.

(7) The history of the bargaining unit, including at least the approximate date of its creation.

(8) The history of the current negotiations, including at least the number of meetings held, the date of the first meeting and whether both parties concur in the request for mediation.



(9) Identification of the issues in dispute and the parties' positions on those issues.

(10) The name, signature, and capacity of each officer, attorney, or other individual acting for the filing party or parties, and the date of signature.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-090 Impasse resolution—Confidential nature of function.** ~~((Information disclosed by the parties to the mediator in confidence during the course of mediation))~~ All communications between the mediator and the parties, and all materials submitted to or by the mediator, are privileged and confidential and shall not be divulged by the mediator outside of the mediation process. Mediation meetings shall be of an executive, private or nonpublic nature.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-200 ((Uniformed personnel—))Interest arbitration—Onset of proceedings.** If a dispute involving ~~((uniformed personnel within the meaning of))~~ a bargaining unit eligible for interest arbitration under RCW 41.56.030(((6))) (7), 41.56.475 or 41.56.492 has not been settled after a reasonable period of mediation, and the mediator is of the opinion that his or her further efforts will not result in an agreement, the mediator shall notify the parties of ~~((intent to recommend))~~ his or her recommendation that the remaining issues in dispute be submitted to interest arbitration.

(1) If ((the)) a dispute for a bargaining unit covered by RCW 41.56.030(7) or 41.56.475 remains unresolved, the mediator shall forward his or her recommendation and a list of unresolved issues to the executive director, who shall consider the recommendation of the mediator and any statements of position filed by the parties as to the existence of an impasse warranting arbitration. The executive director may remand the matter for further mediation. If the executive director finds that the parties remain at impasse, ((written notice shall be given to both parties)) the executive director shall issue a written notice to the parties certifying the unresolved issues for interest arbitration.

(2) If a dispute for a bargaining unit covered by RCW 41.56.492 remains unresolved, the mediator shall forward a list of unresolved issues to the parties and shall consider any statements of position filed by the parties as to the existence of an impasse warranting arbitration. If the mediator finds that the parties remain at impasse, the mediator shall issue a written notice to the parties certifying the unresolved issues for interest arbitration.

AMENDATORY SECTION (Amending Order 83-05, filed 12/1/83, effective 1/1/84)

**WAC 391-55-205 ((Uniformed personnel)) Interest arbitration—Appointment of partisan arbitrators.** Within seven days following the issuance of ~~((the notice by the executive director))~~ a certification of issues for interest arbitration under WAC 391-55-200, each party shall name one person who is available and willing to serve as its

member of the arbitration panel, and shall notify the opposite party and the executive director of the name, address and telephone number of the person so designated. The members so appointed shall proceed as provided in RCW 41.56.450.

AMENDATORY SECTION (Amending Order 83-05, filed 12/1/83, effective 1/1/84)

**WAC 391-55-210 ((Uniformed personnel)) Interest arbitration—Selection of impartial arbitrator.** (1) If the appointed members agree on the selection of a neutral chairman, they shall obtain a commitment to serve, and shall notify the executive director of the identity of the neutral chairman so selected.

(2) If the appointed members agree to have the commission appoint a neutral chairman, they shall file with the executive director a written joint request. The parties and the appointed members are not entitled to influence the designation of an arbitrator under this subsection and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the neutral chairman to be appointed by the commission. Upon the filing of a request in compliance with this subsection, the executive director shall appoint a neutral chairman from the commission staff or the dispute resolution panel.

(3) If the appointed members desire to select a neutral chairman from a panel of arbitrators, they shall attempt to agree as to which of the agencies designated in RCW 41.56.450 will supply the list of arbitrators. If the choice of agency is agreed, either party or the parties jointly shall proceed forthwith to request a panel of five arbitrators. If the appointed members are unable to agree within seven days following their first meeting as to which agency is to supply the list of arbitrators, either of them may apply to the executive director for a list of five available neutral chairmen other than agency staff members and the neutral chairman shall be selected from the commission's dispute resolution panel. All requests for panels under this subsection shall specify: "For interest arbitration proceedings under RCW 41.56.450." The selection of the impartial arbitrator shall be made pursuant to the rules of the agency supplying the list of arbitrators, and the parties shall notify the executive director of the identity of the arbitrator so selected.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-215 ((Uniformed personnel)) Interest arbitration—Conduct of ((interest arbitration)) proceedings.** Proceedings shall be conducted as provided in WAC 391-55-200 through ~~((391-55-260))~~ 391-55-255. The neutral chairman shall interpret and apply these rules insofar as they relate to the powers and duties of the neutral chairman. Any party who proceeds with arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

PROPOSED

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-220** (~~(Uniformed personnel)~~) Interest arbitration—Submission of proposals for arbitration. At least seven days before the date of the hearing, each party shall submit to the members of the panel and to the other party written proposals on all of the issues it intends to submit to arbitration. Parties shall not be entitled to submit issues which were not among the issues (~~(before the mediator under WAC 391-55-070 and before the executive director)~~) certified under WAC 391-55-200.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-225** (~~(Uniformed personnel)~~) Interest arbitration—Hearing. The arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties. For good cause shown, the neutral chairman may adjourn the hearing upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-230** (~~(Uniformed personnel)~~) Interest arbitration—Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the neutral chairman. The neutral chairman shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be filed with the neutral chairman and copies shall be provided to the appointed members and to the other parties. The exhibits shall be retained by the neutral chairman until an agreement has been signed or until any judicial review proceedings have been concluded, after which they may be disposed of as agreed by the parties or as ordered by the neutral chairman.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-235** (~~(Uniformed personnel)~~) Interest arbitration—Arbitration in the absence of a party. The neutral chairman may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Findings of fact and the determination of the issues in dispute shall not be made solely on the default of a party, and the neutral chairman shall require the participating party to submit such evidence as may be required for making of the findings of fact and determining the issues.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-240** (~~(Uniformed personnel)~~) Interest arbitration—Closing of arbitration hearings. The neutral chairman shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and filing of briefs within agreed time limits.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-245** (~~(Uniformed personnel)~~) Interest arbitration—Award. The determination of the neutral chairman shall be controlling, and shall not require concurrence, but may be accompanied by the concurring and/or dissenting opinions of the appointed members. Such determinations shall not be subject to review by the commission, but the neutral chairman shall file a copy of the award with the executive director.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-255** (~~(Uniformed personnel)~~) Interest arbitration—Expenses of arbitration. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member of the arbitration panel. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expense of a neutral chairman appointed pursuant to WAC 391-55-210 (1) or (3), along with any costs for lists of arbitrators and for recording of the proceedings, shall be shared equally between the parties. The fees and traveling expense of a neutral chairman appointed by the commission pursuant to WAC 391-55-210(2), along with the costs of tapes for a tape recording of the proceedings but not a transcription thereof or the services of a court reporter, shall be paid by the commission.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

**WAC 391-55-315** Educational employees—Conduct of fact finding proceedings. Proceedings shall be conducted as provided in WAC 391-55-300 through (~~391-55-360~~) 391-55-355. The fact finder shall interpret and apply these rules insofar as they relate to the powers and duties of the fact finder. Any party who proceeds with fact finding after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

AMENDATORY SECTION (Amending Order 81-01, filed 1/6/81)

**WAC 391-55-345** Educational employees—Findings of fact and recommendations. The findings of fact and recommendations of the fact finder shall not be subject to review by the commission, but the fact finder shall file a copy of his or her written recommendations with the executive director. Fact finders shall rule only on the reasonability of the proposals advanced in the context of the whole of the negotiations between the parties and shall not rule on whether or not a subject or proposal in dispute is a mandatory subject for collective bargaining.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-55-260	Uniformed personnel—Central filing of agreements.
WAC 391-55-360	Educational employees—Central filing of agreements.
WAC 391-55-400	State patrol personnel—Fact finding.
WAC 391-55-410	State patrol personnel—Selection of fact finder.
WAC 391-55-415	State patrol personnel—Conduct of fact finding proceedings.
WAC 391-55-420	State patrol personnel—Submission of proposals for fact finding.
WAC 391-55-425	State patrol personnel—Fact finding hearing.
WAC 391-55-430	State patrol personnel—Order of proceedings and evidence.
WAC 391-55-435	State patrol personnel—Fact finding in the absence of a party.
WAC 391-55-440	State patrol personnel—Closing of fact finding hearings.
WAC 391-55-445	State patrol personnel—Findings of fact and recommendations.
WAC 391-55-450	State patrol personnel—Responsibility of parties after fact finding.
WAC 391-55-455	State patrol personnel—Expenses of fact finding.

**AMENDATORY SECTION** (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

**WAC 391-65-030 Grievance arbitration—Filing—Service.** ~~((Each))~~ A request for appointment of a grievance arbitrator ~~((shall be))~~ may be made in writing or by electronic telefacsimile transmission. The request shall be on a form furnished by the commission or ~~((shall be))~~ prepared by the party or parties filing the request in conformance with WAC 391-65-050. The original request shall be filed with the agency at its Olympia office. If the request is not filed jointly, the party filing the request shall serve a copy on the other party to the collective bargaining agreement under which the dispute arises.

**AMENDATORY SECTION** (Amending Order 88-09, filed 5/31/88)

**WAC 391-65-050 Grievance arbitration—Contents of request.** Each request for appointment of a grievance arbitrator shall contain:

(1) Information identifying the parties to the dispute, including:

(a) The name, address and telephone number of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining~~((:))~~;

~~((2))~~ (b) The name, address and telephone number of the exclusive representative and the name, address and telephone number of its principal representative;

(c) The employer's principal business;

(d) A copy of the applicable collective bargaining agreement;

(e) The description of the bargaining unit involved, specifying inclusions and exclusions;

(f) The number of employees in the bargaining unit;

(g) The agreement of the party or parties making the request to accept the decision of the arbitrator as final and binding; and

(h) The agreement of the party or parties making the request that there will be no strike or lockout on the matters submitted to arbitration.

(2) Identification of the grievance to be resolved in arbitration.

~~((Identification))~~ Designation of the request as:

(a) A request for appointment of a member of the agency staff as arbitrator; or

(b) A request for the submission of a list of names from the dispute resolution panel created by WAC 391-55-110.

~~((A description of the grievances or issues to be submitted to arbitration and the number of employees affected thereby.~~

~~((5) The agreement of the requesting party, or the parties jointly, that there will be no strike or lockout on any matter submitted to arbitration.~~

~~((6) The agreement of the requesting party, or the parties jointly, that the arbitration award be final and binding upon the parties.~~

~~((7))~~ The signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties), and the date(s) of the signature(s).

**AMENDATORY SECTION** (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

**WAC 391-65-110 Grievance arbitration—Conduct of proceedings.** The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises. All such arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service ~~((in effect on December 1, 1977))~~ on May 29, 1985: Provided, however, That arbitration matters handled by members of the agency staff shall be filed in the public files of the agency and shall not be accorded the privacy required by such code. The services of a member of the commission staff as arbitrator shall be subject to interruption for reassignment of such staff member to other functions of the agency having a higher priority.

**AMENDATORY SECTION** (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

**WAC 391-65-130 Grievance arbitration—Award.** Any arbitrator assigned or selected under this chapter for a dispute involving public employees shall, after submission of the arbitration award to the parties, file a copy with the executive director.

**AMENDATORY SECTION** (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-001 Scope—Contents—Other rules.** This chapter governs proceedings before the public employment relations commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter ~~((391-45))~~ 391-95 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC ~~((391-95-050))~~ 391-95-110;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by detailed requirements in WAC 391-95-270 and 391-95-280; and

(d) WAC 10-08-230, which is supplanted by ~~((WAC 391-95-200))~~ detailed requirements in WAC 391-95-170.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(5) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(6) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(7) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

**AMENDATORY SECTION** (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-090 Union security—Petition form—Number of copies—Filing—Service.** Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 391-95-110. The original and ~~((three copies))~~ one copy of the petition shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the dispute and on the employer.

**AMENDATORY SECTION** (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-110 Union security—Contents of petition.** Each petition shall ~~((be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee) under a collective bargaining agreement~~

~~between (name of employer) and (name of exclusive bargaining representative)," and shall))~~ contain:

(1) Identification of the parties, including:

(a) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining((-);

~~((2))~~ (b) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative, if any((-);) and

~~((3))~~ (c) The name, address and telephone number of the affected employee and the name, address and telephone number of his or her representative.

~~((4) Statements, in additional numbered paragraphs,))~~

(2) Indication of the matters in dispute((-

~~5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.~~

~~((6))~~ as including:

(a) The eligibility of the employee to assert a right of nonassociation; and/or

(b) The designation of the charity which is to receive the alternative payments.

(3) Indication of whether the petition is filed on behalf of:

(a) The employee; or

(b) The employee organization.

(4) The signature and, if any, title of the person filing the petition, and the date of signature.

(5) Information concerning the parties, including:

(a) The employer's principal business;

(b) A copy of the current or most recent applicable collective bargaining agreement;

(c) The description of the existing bargaining unit, specifying inclusions and exclusions; and

(d) The approximate number of employees in the bargaining unit.

(6) Indication of whether the claimed right of nonassociation is based upon personal religious belief, or upon the teachings of a church or religious body identified in the petition, including the name, address and telephone number of a contact person.

(7) Identification of the charity which the petitioner proposes to have receive alternative payments, including the name, address and telephone number of a contact person.

(8) Indication of whether disputed funds are being held in escrow by the employer.

(9) Any other relevant facts.

~~((7) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).))~~

**AMENDATORY SECTION** (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-170 Union security—Prehearing conference—Notice of hearing.** There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing. The examiner has discretion to conduct a prehearing conference to discuss with the parties all contested issues of fact, law, and

PROPOSED

procedure which may arise in union security cases. The prehearing conference will be conducted pursuant to WAC 10-08-130. The parties are encouraged to reach binding stipulations on all remaining issues during the course of the prehearing conference.

AMENDATORY SECTION (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-230 Hearings—Nature and scope.** Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments. During the course of the hearing, the examiner may, upon motion by any party, or upon his or her own motion, sequester witnesses. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

- (a) His or her bona fide religious objection to union membership; and
- (b) That the objection is based on a bona fide religious teaching of a church or religious body; and
- (c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

- (a) His or her bona fide religious objection to union membership; and
- (b) That the religious nature of the objection is genuine and in good faith.

(3) Once a hearing has been declared closed, it may be reopened only upon the timely motion of a party upon discovery of new evidence which could not with reasonable diligence have been discovered and produced at the hearing.

(4) A party which desires to have a brief or written argument considered shall file an original and one copy with the examiner, and shall serve copies on all other parties to the proceeding.

AMENDATORY SECTION (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-260 Withdrawal or modification of examiner decision.** On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within ~~((twenty))~~ ten days following the issuance thereof, if any mistake is discovered therein ~~((or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing))~~: *Provided, however,* That this section shall be inoperative after the filing of a petition for review with the commission.

AMENDATORY SECTION (Amending WSR 90-06-075, filed 3/7/90, effective 4/7/90)

**WAC 391-95-270 Proceedings before the commission—Petition for review.** The final order of the examiner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

**WSR 96-03-148  
PROPOSED RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Filed January 24, 1996, 10:48 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 480-93-010, compliance with federal pipeline safety standards. Docket No. UG-951453.

Purpose: Natural gas pipeline safety, updating the incorporation by reference of federal regulations to bring state rules into conformity with existing federal rules.

Statutory Authority for Adoption: RCW 80.01.040.

Summary: See Explanation of Rule below.

Reasons Supporting Proposal: To incorporate recent federal rule adoptions by reference and to conform state and federal rules as required for certification under the Federal Pipeline Safety Law 49 U.S.C. § 60101 et seq. for participation in the federal pipeline safety program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, Secre-

tary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 753-6451.

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

Rule is necessary because of federal law, 49 U.S.C. § 60101.

Explanation of Rule, its Purpose, and Anticipated Effects: Washington state must track federal rules in order to retain its certification under the Federal Pipeline Safety Law 49 U.S.C. § 60101 et seq. to participate in the federal pipeline safety program. Changes in federal rules have been made since the last adoption of state rules, so the changes must be incorporated through a new rule-making procedure. This new federal regulation applies to operators of service lines who do not maintain customer owned buried natural gas piping. The operator is obliged to notify the customer in writing that the operator does not maintain the buried service line. Furthermore, the operator must notify the customer of the consequences that may occur if the piping is not maintained and the type of maintenance that should occur and who is qualified to perform the appropriate maintenance.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared because the proposal is exempt from compliance with chapter 19.85 RCW under RCW 19.85.061 and because the amendment to the rule has minimal impact on the affected businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The requirements are not applicable to the Utilities and Transportation Commission.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on March 13, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Schlenker by March 11, 1996, TDD (360) 586-8203, or (360) 753-6447.

Submit Written Comments to: Steve McLellan, Secretary, P.O. Box 47250, Olympia, WA 98504-7250, FAX (360) 586-1150, by March 1, 1996.

Date of Intended Adoption: March 13, 1996.

January 24, 1996  
Terrance Stapleton  
for Steve McLellan  
Secretary

**AMENDATORY SECTION** [(Amending Order R-427, Docket No. UG-950061, filed 6/20/95)]

**WAC 480-93-010 Compliance with federal standards.** Gas gathering, storage, distribution, and transmission facilities of all gas operators in this state shall be designed, constructed, maintained, and operated in compliance with the provisions of 49 CFR, Parts 191, 192 and 199 in effect on ~~((the date this rule is adopted))~~ [the effective date of this rule], except that any specific provisions in this chapter control in the event of inconsistency between this chapter and the referenced federal rules. 49 CFR, Parts 191, 192 and 199, are available for public inspection in the commis-

sion branch of the Washington state library, located with the headquarters office of the commission. Copies are available from the Government Printing Office Bookstore, Seattle, Washington.

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

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**Reviser's note:** The 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 96-03-154**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Filed January 24, 1996, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-102.

Title of Rule: Commercial fishing rules.

Purpose: Amend coastal groundfish rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sets gear limitations and catch limits for coastal bottomfish.

Reasons Supporting Proposal: Reduce commercial impact on nearshore rockfish and lingcod, provide commercial sustainable yield.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Rich Lincoln, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, 902-2927.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Gear restrictions provide for no directed rockfish or lingcod commercial fisheries in territorial waters in order to provide for recreational opportunity. Additional restrictions provide for release of immature fish. Bottomfish catch limits are set concurrent with recommendations of the Pacific Fisheries Management Council. These catch limits will provide commercial opportunity for the full year.

Proposal Changes the Following Existing Rules: Amends gear and catch limits.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The gear rules will have minimal effect on commercial fishing, as the fleet primarily fishes more than three miles offshore. The proposed limits are consistent with federal recommendations and cannot be altered without federal concurrence.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not amend hydraulic rules.

Hearing Location: Room 461, Natural Resources Building, 1111 Washington Street, Olympia, WA, on February 27, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by February 20, 1996, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Washington State Department of Fish and Wildlife, 600 North Capitol Way, Olympia, WA 98501, FAX (360) 902-2942, by February 26, 1996.

Date of Intended Adoption: March 5, 1996.

January 24, 1996

Judith Freeman

Deputy

for Robert Turner

Director

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-44-030 Coastal bottomfish gear.** It is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington state ports, bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 29, 59A, 59B, 60A and that portion of Area 58 within the United States 200-mile Fishery Conservation Zone with any gear except as provided in this section:

(1) Otter trawl and beam trawl.

(a) It is unlawful to use, operate or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches anywhere in the net.

(b) It is unlawful to use or operate any bottom roller or bobbin trawl having meshes less than 4.5 inches anywhere in the net. ~~((A bottom roller or bobbin trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5 inch minimum mesh size.~~

~~Chafing gear must not be connected directly to the terminal (closed) end of the codend. For all bottom roller or bobbin trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one half (underside) of the codend is covered by chafing gear.~~

~~((c)) On roller or bobbin trawls, chafing gear covering the upper one half (top side) of the codend must have a minimum mesh size of 6.0 inches.))~~ Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

~~((d)) (c) It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches anywhere in the net. ((Chafing gear covering the upper one half (top side) of the codend must have a minimum mesh size of 6 inches.))~~ Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(d) For at least 20 feet immediately behind the footrope or headrope, bare rope or mesh of 16-inch minimum mesh size must completely encircle the net. A band of mesh may encircle the net under transfer cables, lifting or splitting

straps (chokers), but must be: Over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(e) Chafing gear may encircle no more than 50 percent of the circumference of any bottom, roller, bobbin or pelagic trawl except as specified in (d) of this subsection. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

~~((e))~~ (f) It is unlawful to use double wall codends in any trawl gear.

~~((f))~~ (g) Licensing: A food fish trawl—non-Puget Sound fishery license is the license required to operate the gear provided for in this section.

(h) Area restriction: It is unlawful to use bottom roller, bobbin or disc trawl or to use a foot rope greater than 5 inches in diameter in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(2) Set lines.

(a) It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Set lines must be attended at least once every seven days. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A food fish set line fishery license is the license required to operate the gear provided for in this section.

(c) Area restriction: It is unlawful to use set line gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(3) Bottomfish pots.

(a) It is unlawful for the operator of bottomfish pots to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Bottomfish pots must be attended at least once every seven days. Bottomfish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

(c) Area restriction: It is unlawful to use bottomfish pots in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(4) Commercial jig gear.

(a) Licensing: A bottomfish jig fishery license is the license required to operate the gear provided for in this section.

(b) Area restriction: It is unlawful to use commercial jig gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(5) Troll lines.

(a) Licensing: A bottomfish troll fishery license is the license required to operate the gear provided for in this section.

(b) Area restriction: It is unlawful to use bottomfish troll gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(6) Incidental catch.

(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, up to a daily limit of 100 pounds or 30% of all fish on board, whichever is greater. No more than one trip per day provided the bottomfish could be lawfully taken.

(b) It is unlawful to take salmon incidental to any lawful bottomfish fishery.

(c) It is lawful to retain sturgeon taken incidental to any lawful bottomfish fishery, provided the sturgeon could be lawfully taken.

(d) It is unlawful to retain any species of shellfish taken incidental to any lawful bottomfish fishery, except that it is lawful to retain octopus and squid.

AMENDATORY SECTION (Amending Order 95-29, filed 4/4/95, effective 5/5/95)

**WAC 220-44-050 Coastal bottomfish catch limits.**

It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated. All weights are in round pounds:

(1) The following definitions apply to this section:

(a) Cumulative limit. A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) Two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two, fixed calendar months, without a limit on the number of landings or trips. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and November-December. No more than sixty percent of any two-month cumulative limit may be taken and retained, possessed or landed per vessel in either calendar month of the fixed, two-month period. The two-month cumulative limit includes all fish harvested by a vessel during the two-month period, whether taken in limited entry or open access fisheries. Once a two-month cumulative limit has been achieved, an operator may begin fishing on the next two-month cumulative limit so long as the fish are not landed until after the beginning of the next two-month cumulative period.

(c) Vessel trip. A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

~~((e))~~ (d) Vessel trip limit. The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

~~((d))~~ (e) Daily trip limit. The maximum amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

~~((e))~~ (f) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

~~((f))~~ (g) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

~~((g))~~ (h) Dressed length - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

(2) Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed bottomfish species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

(a) Pacific Ocean perch - Two-month cumulative limit of ~~((6,000)) 10,000~~ pounds. No minimum size.

(b) Widow rockfish - Two-month cumulative limit of ~~((30,000)) 70,000~~ pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), and fishing beyond the three-mile territorial limit is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(e) *Sebastes complex* - All species of rockfish except Pacific Ocean perch, widow, shortbelly and thornyhead (*Sebastolobus spp.*).

(i) North of Cape Lookout and south of Cape Lookout if no declaration has been made - Two-month cumulative limit of ~~((35,000)) 70,000~~ pounds, of which no more than ~~((14,000)) 32,000~~ pounds may be yellowtail rockfish and no more than ~~((6,000)) 18,000~~ pounds may be canary rockfish. No minimum size on any species in this category.

(ii) South of Cape Lookout - Two-month cumulative limit of ~~((50,000)) 100,000~~ pounds of which no more than ~~((30,000)) 70,000~~ pounds may be yellowtail rockfish and no more than ~~((6,000)) 18,000~~ pounds may be canary rockfish, provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the department Montesano office at (360) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The



declarer will receive a declaration number from the department.

(B) The declaration must include: Vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano office at 48 Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano office during business hours.

(iii) There is a maximum two-month cumulative limit for landings from both north and south of Cape Lookout of ~~((50,000))~~ 100,000 pounds of which no more than ~~((30,000))~~ 70,000 pounds may be yellowtail rockfish and no more than ~~((6,000))~~ 18,000 pounds may be canary rockfish.

(iv) Wholesale fish dealers purchasing more than ~~((30,000))~~ 42,000 pounds of the *Sebastes complex* ~~((or 14,000))~~, 19,200 pounds of yellowtail rockfish or 10,800 pounds of canary rockfish must enter the declaration number on the fish receiving ticket.

(f) DTS Complex - (sablefish, dover sole and thornyhead rockfish) - Two-month cumulative limit of ~~((35,000))~~ 70,000 pounds, of which no more than 12,000 pounds may be sablefish and not more than 20,000 pounds may be thornyhead rockfish of which no more than 4,000 pounds may be shortspine thornyheads.

(g) Sablefish.

(i) Trawl vessels - ~~((Cumulative limit of 6,000 pounds. Vessel trip limit of 1,000 pounds or 25 percent of the DTS complex, whichever is greater (the sablefish allowance equals .33 x the combined weight of dover sole and thornyhead rockfish). In the trip limit, no))~~ Not more than 500 pounds (round weight) of sablefish per trip may be sablefish less than 22 inches total length. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(ii) Nontrawl vessels - Daily trip limit of 300 pounds (round weight). No minimum size. Effective 0001 hours September 1, 1996, no maximum poundage. Not more than 1,500 pounds or 3 percent of all sablefish aboard, per trip, may be sablefish less than 22 inches in length (15.5 inches dressed length).

(h) Pacific whiting - ~~((No))~~ Vessel trip limit of 10,000 pounds. No minimum size. Effective 0001 hours May 15, 1996, no maximum poundage.

(i) Lingcod - Two-month cumulative limit of ~~((20,000))~~ 40,000 pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only) weight, multiply the dressed weight by 1.1.

(3) Groundfish open access fishery limits. The following limits apply to the ground fish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and

apply to all listed species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29. Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or exceed fifty percent of a ground fish limited entry fishery two-month cumulative limit:

(a) Sablefish - Daily trip limit of 300 pounds (round weight). No minimum size.

(b) Rockfish.

Vessel trip limit of 10,000 pounds. Cumulative trip limit of 35,000 pounds.

(c) Lingcod - Cumulative limit of 20,000 pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed head on (gutted only) weight, multiply the dressed weight by 1.1.

(d) Thornyhead rockfish - Daily trip limit of 50 pounds (round weight). No minimum size.

(4) It is unlawful for the operator of any vessel during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative limit, vessel trip limit, or a daily trip limit.

(5) The fishers copy of all fish receiving tickets showing landings of species provided for in this section must be retained aboard the landing vessel for 90 days after landing.

**WSR 96-03-157**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
[Filed January 24, 1996, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-19-104 and 95-23-111.

Title of Rule: New sections WAC 315-11A-157 Instant Game Number 157 ("Summer Gold"); 315-11A-162 Instant Game Number 162 ("2 Double Dollars"); 315-11A-163 Instant Game Number 163 ("Apple Bucks"); 315-11A-165 Instant Game Number 165 ("BlackJack"); 315-11A-165 Instant Game Number 165 ("2 Bingo"); 315-11A-166 Instant Game Number 166 ("Instant Jackpot"); and 315-11A-167 Instant Game Number 167 ("100 Grands").

Purpose: To establish the game play rules and criteria for determining winners of Instant Games Nos. 157 ("Summer Gold"), 162 ("2 Double Dollars"), 163 ("Apple Bucks"), 164 ("BlackJack"), 165 ("2 Bingo"), 166 ("Instant Jackpot"), and 167 ("100 Grands").

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, (360) 586-6583; Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-157, 315-11A-162, 315-11A-163, 315-11A-164, 315-11A-165, 315-11A-166 and 315-11A-167, 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.

No small business economic impact statement has been prepared under chapter 19.85 RCW. 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; and (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.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: Washington State Lottery, 814 4th Avenue, Olympia, WA 98504, on March 1, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jeff Burkhardt by February 23, 1996, (360) 586-6583.

Submit Written Comments to: Jeff Burkhardt, Lottery, FAX (360) 586-6586, by February 29, 1996.

Date of Intended Adoption: March 1, 1996.

January 15, 1996  
Evelyn P. Yenson  
Director












**NEW SECTION**

**WAC 315-11A-157 Instant Game Number 157 ("Summer Gold"). (1) Definitions for Instant Game Number 157.**

(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 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 157, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	ARCHR
	CYCLE
	EQUEST
	SOCCR
	GYMNS
	SWIMR
	TENNS
	WEGHT
	BASEB
	WPOLO
	TORCH

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$9.00," "\$10.00," "\$20.00," "\$30.00," and "\$2,000." 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 157, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 30.00	\$THIRTY
\$ 2,000	TWOTHOU

(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 15700001-1-000 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 157 constitute the "pack number" which starts at 15700001; 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

PROPOSED

Number 157, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$3 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$5, \$1, \$1 AND \$1)
EGN	\$ 18.00 (\$6, \$6, \$4 AND \$2; \$9 AND \$9)
FRY	\$ 40.00 (\$10, \$10, \$10 AND \$10; \$30 AND \$10)
ETY	\$ 80.00 (\$20, \$20, \$20 AND \$20)

(h) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 157.**

(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 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) In Instant Game Number 157, the "🔥" play symbol with the caption "TORCH" shall always be a winning play symbol, and the bearer of a ticket which has a "🔥" play symbol with the caption "TORCH" 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 157 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 157; and/or

(ii) Vary the number of tickets sold in Instant Game Number 157 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 157.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 157 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning 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 (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-162 Instant Game Number 162 ("2 Double Dollars"). (1) Definitions for Instant Game Number 162.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. Two playfields shall appear on the front of each ticket labeled "Game 1" and "Game 2." Each playfield shall be covered by latex and shall contain seven play spots. One play symbol shall appear in each of the play spots. One of the play spots in each of the two playfields shall be labeled "winning number." Each ticket shall also have a "bonus box" which shall be covered by latex and which shall apply to both playfields.

(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 162, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR

PROPOSED

5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN
15	FTN
\$\$	DBL
TRY AGAIN	TRY

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$ 2.00 (\$1 AND \$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$\$)
EGT	\$ 8.00 (\$3, \$2, \$1, \$1 AND \$1; \$3, \$1 AND \$\$)
TLV	\$ 12.00 (\$6, \$2, \$1, \$1, \$1 AND \$1; \$3, \$2, \$1 AND \$\$)
TTF	\$ 24.00 (\$4, \$4, \$4, \$4, \$4 AND \$4; \$5, \$4, \$3 AND \$\$)
ETY	\$ 80.00 (\$20, \$20, \$20, \$10 AND \$10; \$12, \$10, \$8, \$6, \$4 AND \$\$)
TFR	\$ 240.00 (\$40, \$40, \$40, \$40, \$40 AND \$40; \$50, \$40, \$20, \$7, \$3 AND \$\$)

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(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$7.00," "\$8.00," "\$10.00," "\$12.00," "\$20.00," "\$40.00," "\$50.00," and "\$2,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning number" and "bonus box."

(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 162, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 7.00	SVN DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 50.00	\$FIFTY\$
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 162000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 162 constitute the "pack number" which starts at 162000001; 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 162, 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:

(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 162.**

(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 six play symbols within a playfield matches exactly the play symbol within that same playfield 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.

(iii) In Instant Game Number 162, the bearer of a ticket which has a "\$\$" play symbol with the caption "DBL" in the bonus box shall be entitled to a prize which is double the amount of the prize(s) 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 162 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 162; and/or

(ii) Vary the number of tickets sold in Instant Game Number 162 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 162.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 162 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the fifteen play spots 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" and "bonus box" 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-163 Instant Game Number 163 ("Apple Bucks"). (1) Definitions for Instant Game Number 163.**

(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 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 163, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT

9	NIN
10	TEN
12	TLV
13	THN
14	FRN
🍏	APL

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$8.00," "\$9.00," "\$10.00," "\$12.00," "\$20.00," "\$1,000," and "\$3,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 163, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 1,000	ONETHOU
\$ 3,000	THRTHOU

(e) Validation number: The unique twenty-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 163000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 163 constitute the "pack number" which starts at 163000001; 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 163, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)

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FIV	\$	5.00	(\$1, \$1, \$1, \$1, AND \$1; \$2, \$2 AND \$1)
NIN	\$	9.00	(\$3, \$3, \$1, \$1 AND \$1; \$5, \$1, \$1, \$1 AND \$1)
EGN	\$	18.00	(\$5, \$4, \$3, \$3, AND \$3; \$6, \$6, \$4, \$1 AND \$1)
TWF	\$	25.00	(\$10, \$9, \$4, \$1 AND \$1)
SXY	\$	60.00	(\$20, \$12, \$10, \$10 AND \$8)
TRN	\$	300.00	(\$60, \$60, \$60, \$60 AND \$60)

(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 163.**

- (a) The price of each instant game ticket shall be \$1.00.
- (b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 163, the "A" play symbol with the caption "APL" shall always be a winning play symbol, and the bearer of a ticket which has a "A" play symbol with the caption "APL" shall be entitled to the prize shown below the "A" 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 163 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 163; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 163 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 163.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 163 all of the following validation requirements apply:

- (i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.
- (ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.
- (iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize

symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols 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-164 Instant Game Number 164 ("Blackjack"). (1) Definitions for Instant Game Number 164.**

(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. The ten play spots shall be arranged in five pairs of two spots each, labeled "Dealer's Hand," "Hand 1," "Hand 2," "Hand 3," and "Hand 4."

(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 164, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	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," "\$5.00," "\$7.00," "\$10.00," "\$20.00," "\$40.00," "\$70.00," and "\$700.00." One of these prize symbols appears below each of the pairs, except that no prize symbol appears below the pair labeled "Dealer's Hand."

(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 164, 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
\$ 40.00	\$FORTY\$
\$ 70.00	\$SVNTY\$
\$ 700.00	SVNHUND

(e) Validation number: The unique twenty-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 164000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 164 constitute the "pack number" which starts at 164000001; 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 164, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1, \$2, \$1 AND \$1)
SVN	\$ 7.00 (\$3, \$2, \$1 AND \$1; \$4, \$2 AND \$1)
TTN	\$ 21.00 (\$7, \$7 AND \$7; \$8, \$7, \$5 AND \$1)
SVY	\$ 70.00 (\$20, \$20, \$20 AND \$10)
THF	\$250.00 (\$70, \$70, \$70 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 164.**

(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 sum of the two play symbols appearing within one of the player's hands is a number higher than the sum of the two play symbols labeled "Dealer's Hand," the play symbols in that player's hand shall be winning play symbols and the bearer of the ticket shall win the prize below the winning play symbols.

(ii) In determining the sum of the two play symbols in each pair, play symbols "♠," "♣," "♥," "♦," shall have a value of 10; "A" shall have a value of 11; and all other symbols shall have their face value.

(iii) The bearer of a ticket which has more than one pair of winning play symbols shall win the total of the prizes listed below all winning play symbols.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or payable 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 164 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 164; and/or

(ii) Vary the number of tickets sold in Instant Game Number 164 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 164.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 164 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) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

PROPOSED

(v) 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.

(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-165 Instant Game Number 165 ("2 Bingo"). (1) Definitions for Instant Game Number 165.**

(a) Play symbols: The play symbols are all the integers from "1" to "75," inclusive, and the word "free." Twenty-four of these play symbols shall appear in each of four playfields 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 twenty-digit number on the front of the ticket. The number is covered by latex.

(c) Pack-ticket number: The thirteen-digit number of the form 165000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 165 constitute the "pack number" which starts at 165000001; 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 165, 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:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
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 (\$25, \$25, \$50 AND \$100; \$50 AND \$150; \$200)
THF	\$ 250.00
FVH	\$ 500.00

(e) Pack: A set of one hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 165.**

(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 \$20,000. The "X" must have the "free" space at its center.

(ii) 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 prize on one player's card, only the highest prize on that player's card shall be paid.

(iii) 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.

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(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 165 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 165; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 165 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 165.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 165 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.

**NEW SECTION**

**WAC 315-11A-166 Instant Game Number 166 ("Instant Jackpot"). (1) Definitions for Instant Game Number 166.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols shall appear in each of the twelve play spots under the latex covering on the front of the ticket. The twelve play spots shall be divided into four groups of three spots. Each group of three spots shall be a playfield and shall be labeled "Play 1," "Play 2," "Play 3," and "Play 4."

(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 166, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
☆	STAR
○	LEMN
♣	CHRY
☾	BNNA
♔	CRWN
△	BELL
7	SVEN
U	SHOE
☑	BARR
\$	DOLR
WIN	WINN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$7.00," "\$10.00," "\$15.00," "\$20.00," "\$60.00," "\$70.00," "\$1,000," and "\$2,000." One of these prize symbols appears to the right side of each playfield.

(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 166, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 7.00	SVN DOL
\$ 10.00	TEN DOL
\$ 15.00	FTN DOL
\$ 20.00	TWY DOL
\$ 60.00	\$\$SIXTY\$
\$ 70.00	\$\$SVNTY\$
\$ 1,000	ONETHOU
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 166000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 166 constitute the "pack number" which starts at 166000001; 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

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instant winners of \$600.00 or less. For Instant Game Number 166, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
TEN	\$ 10.00 (\$4, \$4, \$1 AND \$1; \$3, \$3, \$3 AND \$1)
TWF	\$ 25.00 (\$10, \$5, \$5 AND \$5; \$7, \$6, \$6 AND \$6)
FTY	\$ 50.00 (\$20, \$15, \$10 AND \$5)
THF	\$250.00 (\$70, \$60, \$60 AND \$60)

(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 166.**

(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 three play symbols appearing within one playfield match each other exactly, the three matching play symbols shall be winning play symbols, and the bearer of the ticket shall win the prize shown to the right of the winning play symbols in the same playfield.

(ii) In Instant Game Number 166, the "WIN" play symbol with the caption "WINN" shall always be a winning play symbol, and the bearer of a ticket which has a "WIN" play symbol with the caption "WINN" shall be entitled to the prize shown to the right of the "WIN" play symbol in the same row.

(iii) The bearer of a ticket which has more than one set of winning play symbols shall win the total of the prizes shown to the right of the winning play symbols in the same row.

(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 166 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 166; and/or

(ii) Vary the number of tickets sold in Instant Game Number 166 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 166.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for

Instant Game Number 166 all of the following validation requirements apply:

(i) Exactly three play symbols and one prize symbol must appear in each of the four playfields 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 prize symbols shall 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-167 Instant Game Number 167 ("100 Grands"). (1) Definitions for Instant Game Number 167.**

(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 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 167, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT

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9	NIN
10	TEN
12	TLV

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$9.00," "\$10.00," "\$12.00," "\$20.00," and "\$200." 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 167, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 200	TWOHUND

(e) Validation number: The unique twenty-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 167000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 167 constitute the "pack number" which starts at 167000001; 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 167, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
NIN	\$ 9.00 (\$3, \$3, \$1, \$1 AND \$1; \$4, \$3, \$1 AND \$1)
EGN	\$ 18.00 (\$5, \$5, \$3, \$3 AND \$2; \$9, \$3, \$2, \$2 AND \$2)
SXY	\$ 60.00 (\$20, \$10, \$10, \$10 AND \$10; \$12, \$12, \$12, \$12 AND \$12)

(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 167.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or payable 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 167 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 167; and/or

(ii) Vary the number of tickets sold in Instant Game Number 167 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 167.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 167 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

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(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.

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**WSR 96-03-001**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 3, 1996, 3:59 p.m.]

Date of Adoption: January 3, 1996.

Purpose: Chapter 392-121 WAC, Basic education funding, to specify procedures for transfer of basic education funding among school districts or to an educational service district.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 95-22-032 on October 24, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 1996  
 Judith A. Billings  
 Superintendent of  
 Public Instruction

**NEW SECTION**

**WAC 392-121-435 Transfer of basic education allocation.** The board of directors of a school district may request the superintendent of public instruction to pay a portion of the district's basic education allocation to another school district or an educational service district. The request must be submitted on Form 1324 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form 1324 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

**WSR 96-03-002**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 3, 1996, 4:00 p.m.]

Date of Adoption: January 3, 1996.

Purpose: Amend chapter 392-122 WAC to (1) reflect changes in the funding formula for special education, (2) allow districts to carryover up to ten percent of their learning assistance program allocation, and (3) other changes as

necessary to comply with state law and the Biennial Operating Appropriations Act. Also to allow resident school districts to transfer some or all of their special education excess cost funding to other school districts or educational service districts serving students residing in the resident district.

Citation of Existing Rules Affected by this Order: Amending WAC 392-122-100, 392-122-105, 392-122-106, 392-122-107, 392-122-110, 392-122-120, 392-122-130, 392-122-131, 392-122-132, 392-122-135, 392-122-140, 392-122-145, 392-122-150, 392-122-160, 392-122-165, 392-122-710, 392-122-805, and 392-122-900.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 95-22-031 on October 24, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 18, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 19, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 1996  
 Judith A. Billings  
 Superintendent of  
 Public Instruction

**AMENDATORY SECTION** (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-100 State ((handicapped)) special education program—Applicable code provisions.** The following sections of this chapter are applicable to the distribution of state moneys for the state education program for ((handicapped)) special education students:

(1) WAC 392-122-100 through ((392-122-165)) 392-122-166; and

(2) WAC 392-122-900 through 392-122-910.

**AMENDATORY SECTION** (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-105 Definition—LEAP document for state ((handicapped)) special education program allocation.** "LEAP document for state ((handicapped)) special education program allocation" means the formula unit worksheet establishing the ratios and percentage distribution of specified ((handicapping)) disability conditions cited in the State Operating Appropriations Act ((currently)) in effect for the purpose of distributing ((handicapped)) special education program allocations for the 1994-95 school year.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-106 Definition—Form P-223H.** "Form P-223H" means the report of school district ~~((handicapped))~~ special education headcount enrollment ~~((by each handicapping condition and age))~~ for eligible ~~((handicapped))~~ special education students as defined in WAC 392-122-135 submitted monthly by the school districts to the superintendent of public instruction for the school year for the purpose of calculating the ~~((handicapped))~~ special education program allocations.

(1) The count dates for ~~((handicapped))~~ special education student enrollments shall be the same as specified in WAC 392-121-122.

(2) This report shall indicate the ~~((handicapped))~~ special education enrollment by resident school district and serving school district.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-107 Definition—Report 1220.** "Report 1220" means the school district's ~~((handicapped))~~ special education allocation report calculated and prepared by the superintendent of public instruction using the district's eight-month average annual headcount enrollment as submitted on Form P-223H for the school year and for the 1994-95 school year the ratios and percentages established in the LEAP document for state ~~((handicapped))~~ special education program allocation as defined in WAC 392-122-105. For the purpose of ~~((handicapped))~~ special education allocations, the district's eight-month average annual headcount enrollment shall be the average of the enrollments for the first school day of the second reporting month and the subsequent seven months.

AMENDATORY SECTION (Amending Order 93-19, filed 10/20/93, effective 11/20/93)

**WAC 392-122-110 Definition—State ~~((handicapped))~~ special education program—~~((Handicapped))~~ Special education program certificated instructional staff salary and mix factor variables for the allocation formula for the 1994-95 school year.** ~~((Handicapped))~~ Special education program certificated instructional staff salary and mix factor variables used in the ~~((handicapped))~~ special education allocation formula for the 1994-95 school year shall be defined the same as those defined in WAC 392-121-200 through 392-121-299: *Provided*, That the words "state ~~((handicapped))~~ special education program" shall be substituted for "basic education" throughout those definitions.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-120 State ~~((handicapped))~~ special education program—Determination of district average state ~~((handicapped))~~ special education program certificated instructional staff salary for the purpose of apportionment.** For the 1994-95 school year the determination of district average ~~((handicapped))~~ special education program certificated instructional staff salary used in the ~~((handicapped))~~ special education allocation formula for the

purposes of apportionment shall be the same as specified in WAC 392-121-299: *Provided*, That the words "state ~~((handicapped))~~ special education program" shall be substituted for "basic education" throughout that section.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-130 State ~~((handicapped))~~ special education program—Nonemployee related cost.** For the 1994-95 school year state ~~((handicapped))~~ special education program moneys for nonemployee related costs (NERC) shall be allocated to school districts for eligible ~~((handicapped))~~ special education students served at the maximum rate established in the LEAP document for state ~~((handicapped))~~ special education programs.

AMENDATORY SECTION (Amending Order 85-16, filed 12/9/85)

**WAC 392-122-131 State ~~((handicapped))~~ special education program—Basic education backout.** For the 1994-95 school year the district's basic education backout shall be calculated based on the percentages established in the LEAP document for state ~~((handicapped))~~ special education program ~~((s))~~ allocations as defined in WAC 392-122-105.

AMENDATORY SECTION (Amending Order 85-16, filed 12/9/85)

**WAC 392-122-132 State ~~((handicapped))~~ special education program—Substitute teacher pay allocations.** For the 1994-95 school year state ~~((handicapped))~~ special education program moneys for substitute teacher pay allocations shall be allocated to school districts for certificated staff units at the maximum rate established in the LEAP document for state ~~((handicapped))~~ special education program ~~((s))~~ allocations as defined in WAC 392-122-105.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-135 State ~~((handicapped))~~ special education program—Eligible ~~((handicapped))~~ special education students.** ~~((State handicapped program moneys shall be allocated in accordance with the LEAP document for state handicapped program allocation for each served, eligible handicapped))~~ Eligible special education students ~~((as defined in))~~ are those students:

- (1) For the 1994-95 school year as defined in:
  - ~~((a))~~ (a) WAC 392-171-381 (developmentally ~~((handicapped))~~ disabled preschool students);
  - ~~((b))~~ (b) WAC 392-171-386 (seriously behaviorally disabled students);
  - ~~((c))~~ (c) WAC 392-171-391 (communication disordered students);
  - ~~((d))~~ (d) WAC 392-171-396 (orthopedically impaired students);
  - ~~((e))~~ (e) WAC 392-171-401 (health impaired students);
  - ~~((f))~~ (f) WAC 392-171-406 (specific learning disabled students);
  - ~~((g))~~ (g) WAC 392-171-421 (mentally retarded students);

~~((8))~~ (h) WAC 392-171-431 (~~((multihandicapped))~~) multidisability students;

~~((9))~~ (i) WAC 392-171-436 (deaf students);

~~((10))~~ (j) WAC 392-171-441 (hard of hearing students);

~~((11))~~ (k) WAC 392-171-446 (visually (~~((handicapped))~~) impaired students); and

~~((12))~~ (l) WAC 392-171-451 (deaf-blind students); and

(2) For the 1995-96 school year and thereafter:

(a) Meeting the definition of enrolled student in WAC 392-121-106, enrolled in a course of study pursuant to WAC 392-121-107 and who qualify and are receiving special education services pursuant to chapter 392-172 WAC; or

(b) Who are under six years of age, qualify as developmentally delayed pursuant to WAC 392-172-114 and are receiving special education services pursuant to chapter 392-172 WAC; or

(c) Who are under six years of age, qualify as communication disordered pursuant to WAC 392-172-120 and are receiving special education services pursuant to chapter 392-172 WAC.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-140 State (~~((handicapped))~~) special education program—Home and/or hospital care. State (~~((handicapped))~~) special education program moneys shall be allocated to school districts for students eligible under WAC (~~((392-171-486))~~) 392-172-218 temporarily requiring home and/or hospital care at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing home and/or hospital care allocations.**

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-145 State (~~((handicapped))~~) special education program—Home and/or hospital care—Extended absences. Students eligible under WAC 392-171-486 temporarily requiring home and/or hospital care shall be counted as enrolled students pursuant to WAC 392-121-106 as follows:**

(1) Students not deemed eligible (~~((handicapped))~~) special education students pursuant to WAC 392-122-135 whose absence from the regular attendance continues through two consecutive monthly enrollment report days shall be dropped from the rolls and shall not be counted as an enrolled student on the next monthly enrollment report day unless attendance has resumed. Such students shall only be eligible for home and/or hospital care allocations until attendance in the regular program is resumed.

(2) Students deemed eligible (~~((handicapped))~~) special education students pursuant to WAC 392-122-135 shall be reported as enrolled students for the duration of the home and/or hospital care.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-150 State (~~((handicapped))~~) special education program—Hospital educational program. State (~~((handicapped))~~) special education program moneys shall be**

allocated by the superintendent of public instruction to school districts operating a hospital educational program for the exclusive purpose of maintaining and operating the hospital educational program. School districts shall be allocated funds for hospital educational programs at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing hospital educational program allocations.

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-155 State (~~((handicapped))~~) special education program—Board and room cost. State (~~((handicapped))~~) special education program moneys shall be allocated to school districts for the cost of approved board and room for eligible handicapped students served and requiring board and room, who are not eligible under programs of the department of social and health services, but deemed in need of the board and room by the superintendent of public instruction. These moneys are in lieu of transportation costs. School districts shall be allocated (~~((funds))~~) moneys for board and room of eligible (~~((handicapped))~~) special education students at the maximum rate provided annually by the superintendent of public instruction for the purpose of distributing board and room allocations.**

AMENDATORY SECTION (Amending Order 84-36, filed 10/2/84)

**WAC 392-122-160 State (~~((handicapped))~~) special education program—Reporting. (1) At such times as are designated by the superintendent of public instruction, each school district shall report the number of eligible (~~((handicapped))~~) special education students (~~((by each handicapping condition and age))~~) receiving special education according to instructions provided by the superintendent of public instruction. The (~~((handicapping))~~) disability condition shall be one of such conditions in WAC 392-122-135. The age for the purpose of determining the (~~((handicapped))~~) special education program allocation calculated in WAC 392-122-105 shall be the age of the student as of midnight August 31 of the school year. The age reported by the school district shall be for apportionment purposes only and not for determination of a child's eligibility for access to a special education program (~~((as provided in chapter 392-171 WAC))~~).**

(2) Each school district shall provide, upon request, such additional data as are necessary to enable the superintendent of public instruction to allocate and substantiate the school district's allocation of state (~~((handicapped))~~) special education moneys.

AMENDATORY SECTION (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-165 State (~~((handicapped))~~) special education program—Apportionment of state (~~((handicapped))~~) special education program moneys. From moneys appropriated by the legislature, the superintendent of public instruction shall apportion state (~~((handicapped))~~) special education program moneys to each school district based on the (~~((LEAP document))~~) criteria cited in the State Operating Appropriations Act for the respective school year**

for state ((handicapped)) special education program allocation and on the provisions of WAC 392-122-100 through ((392-122-160)) 392-122-166. The superintendent of public instruction shall make payments in the same manner as provided in WAC 392-121-400.

#### NEW SECTION

**WAC 392-122-166 State special education program allocation.** The board of directors of a school district may request the superintendent of public instruction to pay a portion of the district's special education allocation to another school district or an educational service district. The request must be submitted on Form 1324 and must state the dollar amount of the transfer. The board can modify the dollar amount of the transfer by submitting another Form 1324 to the superintendent of public instruction. Unless the form requesting a transfer states a timeline for making the transfer, the superintendent of public instruction shall execute the transfer pursuant to the provisions of WAC 392-121-400.

**AMENDATORY SECTION** (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-122-710 Distribution of state moneys for the transitional bilingual program.** The superintendent of public instruction shall apportion to districts for the state transitional bilingual program the amount calculated per district in WAC 392-122-705 according to the apportionment schedule provided in RCW 28A.510.250. Monthly payments to districts shall be adjusted during the year to reflect changes in the district's reported eligible students as reported on the P223, monthly report of school district enrollment form. For the purpose of transitional bilingual allocations, the district's eight-month average annual headcount enrollment of eligible students as defined in WAC 392-160-005 (1)(c) shall be the average of such enrollment for the first school day of the second reporting month and the subsequent seven months.

**AMENDATORY SECTION** (Amending Order 2, filed 1/23/91, effective 2/23/91)

**WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program.** (1) As used in this section, the term "average annual full-time equivalent students" or AAFTE shall be defined as that term defined in WAC 392-121-133.

(2) A district's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

(a) Multiplying the AAFTE of the reporting district by one and one-half percent;

(b) Multiplying the number of students obtained in the above calculation by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(c) The product is the district's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

**AMENDATORY SECTION** (Amending WSR 95-18-074, filed 9/1/95, effective 10/2/95)

**WAC 392-122-900 General provision—Carryover prohibition.** Categorical apportionment moneys shall not be carried over by a school district from one school district fiscal year to another, except for learning assistance program moneys as provided in subsection (4) of this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter which are not expended by the school district during the school year for allowable program costs:

(a) Moneys recovered at the end of the school year beginning during the first year of each biennium shall be available for reallocation by the superintendent of public instruction.

(b) Moneys recovered at the end of the school year beginning during the second year of each biennium shall revert to the state treasurer: *Provided*, That if prior to recovery, insufficient moneys are available to fully fund those programs operating in the second year of the biennium, any moneys recovered shall first be allocated to fully fund these programs.

(2) Except as provided in subsection (3) of this section, the amount recovered pursuant to subsection (1) of this section shall be determined as follows:

(a) Determine the state allocation for the categorical program;

(b) Determine the district's expenditures for the program including indirect expenditures and abatements deemed allowable by the superintendent of public instruction as reported on Year-End Financial Statement F-196, Part III or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(3) The amount recovered pursuant to subsection (1) of this section for the institutional education program for the 1992-93 school year and thereafter shall be determined as follows:

(a) Determine the state allocation for the institutional education program excluding any amount provided for indirect costs;

(b) Determine the district's direct expenditures for the institutional education program as reported on Year-End Financial Statement F-196 or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(4) Commencing with the 1994-95 school year allocation and notwithstanding other provisions of this section to the contrary, a school district may carry over from one school district fiscal year to the next school year up to ten percent of the preceding fiscal year's learning assistance program state allocation ((commencing with the carryover of a district's 1994-95 allocation)). Carryover moneys shall be expended solely for learning assistance program purposes.



**WSR 96-03-003**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Order 632—Filed January 4, 1996, 9:11 a.m., effective January 1, 1997]

Date of Adoption: January 2, 1996.

Purpose: This rule amendment removes land from the Department of Natural Resources fire protection, assigns responsibility for protection to Pierce County Fire Protection District #27, and removes forest protection assessment from lands transferred to fire district protection.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 332-24-720.

Statutory Authority for Adoption: RCW 76.04.165.

Adopted under notice filed as WSR 95-22-078 on October 31, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: January 1, 1997.

January 2, 1996  
 Kaleen Cottingham  
 Supervisor

**AMENDATORY SECTION** (Amending Order 609, filed 3/4/93, effective 4/4/93)

**WAC 332-24-720 Forest protection zone—Pierce County.** (1) It is determined that some forest lands within Pierce County are best protected by fire protection districts. Therefore, the forest lands, situated in the following fire protection districts, are removed from the department's forest protection zone and become the protection responsibility of the district:

(a) Fire Protection District 21. All forest lands, except state and federal forest lands within the legal description as follows: Township 17 North, Range 3 East, W.M., Sections 1, 2, 11, 12; Township 17 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; Township 17 North, Range 5 East, W.M., Sections 4, 5, 6, 7; Township 18 North, Range 3 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, 35, 36; Township 18 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 18 North, Range 5, East W.M., Sections 18, 19, 20, 29, 30, 31, 32, 33; Township 19 North, Range 4 East, W.M., Sections 28, 29, 30, 31, 32, 33, 34.

(b) Fire Protection District 27. All forest lands, except state and federal forest lands on Anderson Island.

(2) Forest lands removed from the forest protections zone will not be assessed under RCW 76.04.610 or 76.04.-630.

(3) The exchange of fire protection responsibility involving Fire Protection District 21 will be effective January 1, 1994.

(4) The exchange of fire protection responsibility involving Fire Protection District 27 will be effective January 1, 1997.

**WSR 96-03-004**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed January 4, 1996, 9:50 a.m.]

Date of Adoption: January 3, 1996.

Purpose: To bring existing rules into compliance with statutory changes made during the 1995 session which eliminated the word "transfer" from liquor license. (Chapter 232, Laws of 1995.)

Citation of Existing Rules Affected by this Order:  
 Amending WAC 314-12-020, 314-12-025, 314-12-035, 314-12-070, 314-12-080, 314-70-010, and 314-70-030.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010, and 66.24.025.

Adopted under notice filed as WSR 95-23-110 on November 22, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 7, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 1996

Mike Murphy  
 Chairman

**AMENDATORY SECTION** (Amending WSR 93-15-024, filed 7/12/93, effective 8/12/93)

**WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.** (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance (~~or transfer~~) of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) An applicant for any license or permit issued by the liquor control board, who employs an attorney or agent in connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.

(5) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

(6) The board may, at its discretion and for good cause shown, reconsider a denied application upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW

66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration.

**AMENDATORY SECTION** (Amending WSR 93-10-070, filed 5/3/93, effective 6/3/93)

**WAC 314-12-025 Applicants for temporary licenses—Fee—Who qualifies.** A person who has submitted (~~a transfer~~) application for a retail or wholesale liquor license in accordance with RCW 66.24.010 and WAC 314-12-070, and who has demonstrated to the satisfaction of the board that an emergency situation exists, or who submits all initially required documents which appear to be complete and signed, may apply for, and be issued, a temporary license to be effective immediately upon issuance under the following conditions:

(1) A fee of fifty dollars shall be submitted with the application for a temporary license.

(2) For the purposes of this section "emergency situation" shall include death or incapacity of the seller, foreclosure, divorce, or other situation which requires the buyer to assume control of the business before the application can be fully processed and approved.

(3) For the purposes of this section, "retail liquor license" shall include all classes of liquor licenses that allow the holder to sell liquor directly to the public.

(4) For the purposes of this section, "wholesale liquor license" shall include all classes of liquor licenses held in conjunction with those wholesale licenses authorized by RCW 66.24.200 and 66.24.250.

(5) The privilege of having a temporary license issued upon an application for (~~a transfer of~~) license does not apply to breweries or wineries, even though these licensees have limited wholesale and retail privileges under their manufacturers' licenses.

**AMENDATORY SECTION** (Amending WSR 91-22-114, filed 11/6/91, effective 12/7/91)

**WAC 314-12-035 Furnishing of information and/or documentation to the board.** (1) In order to facilitate the administration and/or enforcement of RCW 66.24.010, licensees, applicants for licenses, or the agents or representatives thereof shall, upon request by the board, furnish to the board copies of all documents affecting the ownership and/or proposed operation of the premises licensed or sought to be licensed. These documents may be required with the original license application, with any additional application (~~for transfer of license~~), and at such other times as may be requested by the board. Licensees, applicants for licenses, or the agents or representatives thereof, shall furnish along with these documents a signed written summary of any oral agreements which affect the ownership and/or proposed operation of the premises licensed, or sought to be licensed. Failure or refusal to furnish said requested documentation will be good and sufficient cause for denial of any application in support of which the documentation was requested, and will be good and sufficient cause for revocation of any license held by a licensee who fails or refuses to furnish the said requested documentation.

(2) Written information and/or documentation requested by the board from any person for the purpose of administering and/or enforcing RCW 66.24.010, any person furnishing written information and/or documentation requested by the board may be required to submit an affidavit on a form prescribed by the board, which shall be signed by the person submitting the information, given under oath subject to the penalties of perjury, and certifying that all information and/or documentation being furnished is true, accurate and complete.

AMENDATORY SECTION (Amending WSR 90-24-008, filed 11/27/90, effective 12/28/90)

**WAC 314-12-070 ((Transfer of licenses-)) Applications for currently licensed locations.** (1) No ~~((transfer of))~~ application for any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions:

(a) ~~((The holder of the license shall execute an assignment and transfer upon a form prescribed by the board, and the assignee and transferee shall then make application for approval of such assignment and transfer;~~

~~((b))~~ Except as authorized by WAC 314-12-025, the ~~((transferee))~~ license applicant shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such ~~((assignment and transfer))~~ application be effective until the board shall have approved the same;

~~((c))~~ ~~((b))~~ In approving any ~~((assignment and transfer of))~~ license~~((s))~~, the board reserves the right to impose special conditions as to the future connection of the former licensee ~~((for) (off))~~ or any of his employees with the licensed business as in its judgment the circumstances may justify;

~~((d))~~ ~~((c))~~ A change of trade name may be made coincident with the ~~((transfer))~~ issuance of the license without any additional fee.

(2) The sale of a partnership interest or any change in the partners, either by withdrawal or addition or otherwise, shall be considered ~~((an assignment and transfer of the licenses held by the partnership))~~ a change of ownership and subject to the applicable regulations ~~((applicable to assignment and transfer of licenses))~~.

(3) If the licensee is a corporation, ~~((whether as sole licensee or in conjunction with other entities,))~~ whether as sole licensee or in conjunction with other entities, a change in ownership of any stock shall be deemed a ~~((corporate change, not a transfer of a license.))~~ corporate change. The licensed corporation shall report to and obtain written approval from the board, for any proposed change in principal officers and/or the proposed sale of more than ten percent of the corporation's outstanding and/or issued stock before any such changes are made. The board may inquire into all matters in connection with any such sale of stock or proposed change in officers. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.

(4) For purposes of this regulation:

(a) "Principal officer" shall mean the president, vice president, secretary, and treasurer, or the equivalent in title, for a publicly traded corporation, and president, vice president, secretary, treasurer, or the equivalent in title, and all

other officers who hold more than ten percent of the corporate stock, for a privately held corporation.

(b) The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation.

~~((5)) If a licensee has an unresolved violation charge pending, no action will be taken by the board on an application to transfer the liquor license to another until such time as a final disposition has been made of the pending violation charge.))~~

AMENDATORY SECTION (Amending WSR 92-21-061, filed 10/19/92, effective 11/19/92)

**WAC 314-12-080 Limitation on ~~((transfers and))~~ reapplications.** ~~((1)) Except as provided herein, no application for transfer of any license shall be made for a period of ninety days following the issuance or transfer of such license.~~

~~((2)) This limitation shall not apply in any of the circumstances set forth in WAC 314-12-060.~~

~~((3)) In the event of the withdrawal of a partner, the license may be transferred to the remaining partner or partners within the prohibited period.~~

~~((4))~~ Unless otherwise approved by the board no reapplication for a license shall be made within a period of one year following a denial of any license application.

AMENDATORY SECTION (Amending Order 109, Resolution No. 118, filed 8/9/82)

**WAC 314-70-010 Sale by Class H licensee of liquor stock after discontinuance of business.** Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a Class H licensee who permanently discontinues business for any reason shall dispose of the salable unopened liquor remaining in stock by sale to the board of the items originally purchased from the board. The board will pay the total amount listed in the official price list then in effect, less the Class H discount and tax exemption expressed as a percent of the total price and the percent of total expenses assigned to the merchandise division to gross sales as reported on the profit and loss statement in the last published annual report of the board. Combined percentages will be rounded up to a whole percent: *Provided, however,* That in the case of a ~~((transfer of license))~~ sale of business with a Class H licensee, after obtaining the approval of the board and under the supervision of a representative of the board, may sell the entire inventory of liquor to the incoming licensee at a negotiated price.

AMENDATORY SECTION (Amending Order 109, Resolution No. 118, filed 8/9/82)

**WAC 314-70-030 Purchases by Class H licensee of certain liquor stocks.** Notwithstanding any other provision of Title 66 RCW or Title 314 WAC, a Class H licensee in conjunction with ~~((a transfer of license))~~ the purchase of a licensed business may purchase, and place into its regular stock, salable liquor as provided in WAC 314-70-010. Such

liquor shall be treated for purposes of Title 66 RCW and Title 314 WAC as if it had been purchased from the board pursuant to RCW 66.24.440.

**WSR 96-03-005**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed January 4, 1996, 10:54 a.m.]

Date of Adoption: January 3, 1996.

Purpose: To replace the word "dining" inadvertently left out of previous revisions to the rule pertaining to setting forth floor space requirements for Class H licensed premises.

Citation of Existing Rules Affected by this Order: Amending WAC 314-16-196.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 95-23-076 on November 17, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 1996

Mike Murphy  
Chairman

**AMENDATORY SECTION** (Amending WSR 95-20-005, filed 9/21/95, effective 10/22/95)

**WAC 314-16-196 Class H restaurant—Floor space requirements—Conditions for service bar only premises.**

(1) Definitions. For the purpose of this section:

(a) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(b) "Cabaret" means a dining area also used to conduct entertainment such as live music, patron dancing, comedy and floor shows.

(c) "Cocktail lounge" means that portion of a licensed premises used primarily for the preparation, sale and service of liquor. Persons under twenty-one years of age are not permitted to enter a cocktail lounge except as otherwise provided under this title.

(d) "Public service area" means those public areas where food and/or liquor is normally sold and served to the general public.

(e) "Dining room" means that area dedicated to the sale and service of food with liquor being incidental to dining. A dining area must be separate and apart from a dance floor,

entertainment stage, cocktail lounge or game area except if written permission is given by the board to use a dining area during specified times as a cabaret area.

(f) "Service bar" means any fixed or portable table, counter, cart or similar work station primarily used to prepare, mix, serve and sell liquor for pickup only, by employees and customers.

(2) Before the board shall issue a Class H license to a bona fide restaurant, the applicant shall submit, as a part of or in addition to the blueprint required by WAC 314-16-190 (2)(a), a scale drawing one-quarter inch equals one foot of the proposed premises indicating that the area designated as the primary dining room(s) comprises at least fifteen percent of the total public service area: Provided,

(a) Banquet rooms are permitted without limitations as to number or size.

(b) Routine sale and service of liquor in a banquet room to the public requires written board approval.

(3) The boundary of a cocktail lounge or other restricted area shall be clearly defined as a separate and distinct area by fixed or movable barriers, including, but not limited to, railings, ropes and stanchions, shrubbery or other closely placed plantings, etc.

(a) Restricted area entrances may be no wider than ten feet.

(b) Minor prohibited signs as required by WAC 314-16-025 must be placed at all restricted area entrances and other locations as necessary.

(c) The licensee is responsible to construct and post restricted area boundaries to reasonably prevent unauthorized persons from entering such areas.

(d) Movable barriers may not be placed so as to reduce the required dining area to less than fifteen percent.

(4) In Class H premises with a cocktail lounge, any portable service bar(s) may be placed in, or moved about, public service areas other than the dining area(s) without need for separate board approval.

(a) Any permanently fixed service bar(s) must be included as part of original floor plans or submitted as an alterations request, requiring board approval.

(b) Customers may not be seated or allowed to consume food or liquor at the service bar(s).

(5) Class H licensees/applicants may have a service bar(s) without regard to the floor space requirements of subsection (2) of this section, in lieu of a cocktail lounge on the following conditions:

(a) Location of permanently fixed service bar(s) shall be approved, in writing, by the board.

(b) Customers may not be seated or allowed to consume food or liquor at the service bar(s).

(c) Liquor sale, service and consumption may take place only during hours that the full restaurant menu is available and a chef or cook is on duty.

(d) A Class H licensed restaurant having a service bar(s) only, is not eligible for entertainment except for the added activity of live background music. Written board approval is required.

(6) If the board issues a Class H license to a bona fide restaurant which has a service bar in lieu of an approved cocktail lounge and the licensee subsequently applies for approval to install a cocktail lounge, the board will process such a change in the same manner as an application for a

new Class H license (i.e. notice will be posted at the premises, notice will be given to local officials, and nearby churches and schools will be notified).

(7) The board may approve variations to the floor space requirement of this subsection where the applicant/licensee can demonstrate to the satisfaction of the board that the proposed layout would best suit the available floor space.

**WSR 96-03-016**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
(Board of Pharmacy)

[Filed January 5, 1996, 3:40 p.m.]

Date of Adoption: October 26, 1995.

Purpose: To repeal WAC 246-869-240, as it has been moved to a more appropriate section.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-869-240.

Statutory Authority for Adoption: RCW 18.64.005.

Adopted under notice filed as WSR 95-14-112 on June 30, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 5, 1996  
Suann Bond, Chair  
Board of Pharmacy

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-869-240 Pharmacist's professional responsibilities.

**WSR 96-03-031**  
**PERMANENT RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Order 161—Filed January 9, 1996, 11:43 a.m.]

Date of Adoption: January 9, 1996.

Purpose: Repeals language which was unnecessarily added to the WAC in 1994 to address the 1959 zoning date, which was incorrectly applied to outdoor advertising along interstate highways. Allows billboards to be placed in any

commercial or industrial area, providing that sign spacing criteria and local sign regulations are met.

Citation of Existing Rules Affected by this Order: Amending WAC 468-66-080(6) Number of signs and spacing requirements along interstate system.

Statutory Authority for Adoption: Chapter 47.42 RCW.

Adopted under notice filed as WSR 95-24-072 on December 4, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 1996  
S. A. Moon  
Deputy Secretary  
for Operations

**AMENDATORY SECTION** (Amending Order 144, filed 5/27/94, effective 6/27/94)

**WAC 468-66-080 Number of signs and spacing requirements along interstate system.** No Type 4 or Type 5 signs which are visible from the main-traveled way of the interstate system shall be erected or maintained in any manner inconsistent with the following:

(1) In advance of an intersection of the main-traveled way of the interstate highway and an exit roadway, such signs visible to interstate system traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection	Number of signs
0-2 miles . . . . .	0
2-5 miles . . . . .	6
More than 5 miles . . . . .	Average of one sign per mile

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the interstate highway.

(2) Subject to the other provisions of this section, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than one thousand feet apart.

(3) Such signs may not be permitted adjacent to any interstate highway right of way upon any part of the width of which is constructed an entrance or exit roadway.

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(4) Such signs visible to interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted for one thousand feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the interstate highway.

(5) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one interstate highway.

~~((6) Subject to the other provisions of this section, such signs are allowed only in commercial or industrial zones within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959, and all other commercial or industrial areas established on or before September 21, 1959.))~~

**WSR 96-03-039**  
**PERMANENT RULES**  
**LOTTERY COMMISSION**  
 [Filed January 10, 1996, 12:30 p.m.]

Date of Adoption: January 5, 1996.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 158 ("Five Card Stud"), 159 ("Fat Cat"), 160 ("My! Oh! My!"), and 161 ("\$2 Baseball Scoreboard"), and to amend WAC 315-04-229.

Citation of Existing Rules Affected by this Order: Amending WAC 315-04-220.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 95-23-112 on November 22, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 January 9, 1996  
 Evelyn P. Yenson  
 Director

**NEW SECTION**

**WAC 315-11A-158 Instant Game Number 158 ("Five Card Stud"). (1) Definitions for Instant Game Number 158.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears

in each of the 20 play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. The 20 play spots shall be arranged in four rows, labeled "Hand 1," "Hand 2," "Hand 3," and "Hand 4," with five play spots in each row.

(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 158, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
J	JCK
Q	QUE
K	KNG
A	ACE

(c) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(d) Pack-ticket number: The twelve-digit number of the form 15800001-1-000 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 158 constitute the "pack number" which starts at 15800001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(e) 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 158, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FIV	\$ 5.00 (\$2, \$2 AND \$1; \$5)
TEN	\$ 10.00 (\$5, \$2, \$2 AND \$1; \$10)
TWF	\$ 25.00 (\$10, \$5, \$5 AND \$5; \$25)
FTY	\$ 50.00 (\$25, \$10, \$10 AND \$5; \$50)
FVH	\$ 500.00

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



(f) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 158.

(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) The bearer of a ticket having play symbol in the same game (horizontal row) that correspond with the legend (below) shall win the prize listed. Play symbols in different games (horizontal rows) may not be combined to win a prize. Each ticket shall bear a legend which lists each winning set of play symbols and its corresponding prize.

Two		play symbols	-	Win	\$1
Two		play symbols	-	Win	\$2
Two		play symbols	-	Win	\$5
Two		play symbols	-	Win	\$10
Two		play symbols	-	Win	\$25
Two		play symbols	-	Win	\$50
Two		play symbols	-	Win	\$500
Two		(ace high straight) play symbols	-	Win	\$5,000

(ii) The bearer of a ticket which has more than one set of winning play symbols shall win the total of the prizes listed in the legend for all 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 158 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 158; and/or

(ii) Vary the number of tickets sold in Instant Game Number 158 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 158.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 158 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the 20 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) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font

Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) 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-159 Instant Game Number 159 ("Fat Cat"). (1) Definitions for Instant Game Number 159.**

(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 159, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
	MOU

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$8.00," "\$10.00," "\$15.00," "\$20.00," "\$40.00," and "\$500.00." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 159, the prize symbol captions which correspond with and verify the prize symbols are:

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<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 15.00	FTN DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 500	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 15900001-1-000 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 159 constitute the "pack number" which starts at 15900001; 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 159, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
ONE	\$ 1.00	
THR	\$ 3.00	(\$1, \$1 AND \$1; \$2 AND \$1)
FOR	\$ 4.00	(\$1, \$1, \$1 AND \$1; \$3 AND \$1)
SVN	\$ 7.00	(\$4, \$1, \$1 AND \$1; \$3, \$2, \$1 AND \$1)
TLV	\$ 12.00	(\$3, \$3, \$3 AND \$3; \$6, \$3, \$2 AND \$1)
TTF	\$ 24.00	(\$8, \$8, \$4 AND \$4)
ETY	\$ 80.00	(\$20, \$20, \$20 AND \$20; \$40, \$15, \$15 AND \$10)

(h) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 159.**

(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 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) In Instant Game Number 159, the "MOU" play symbol with the caption "MOU" shall always be a winning play

symbol, and the bearer of a ticket which has a "MOU" play symbol with the caption "MOU" shall be entitled to the prize shown below the "MOU" 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 159 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 159; and/or

(ii) Vary the number of tickets sold in Instant Game Number 159 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 159.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 159 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

PERMANENT



**NEW SECTION**

**WAC 315-11A-160 Instant Game Number 160 ("My! Oh! My!"). (1) Definitions for Instant Game Number 160.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the four play spots in the "your score" column and in each of the four play spots in the "their score" column 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 symbol."

(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 160, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZRO
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
12	TLV

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$8.00," "\$10.00," "\$20.00," "\$50.00," and "\$500.00." One of these prize symbols appears to the right of 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 160, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 50.00	\$FIFTY\$
\$ 500	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 16000001-1-000 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 160 constitute the "pack number" which starts at 16000001; 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 160, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2, \$1 AND \$1)
EGT	\$ 8.00 (\$2, \$2, \$2 AND \$2; \$3, \$3, \$1 AND \$1)
SXT	\$ 16.00 (\$6, \$4, \$4 AND \$2; \$5, \$5, \$5 AND \$1)
THT	\$ 32.00 (\$8, \$8, \$8 AND \$8; \$20, \$10, \$1 AND \$1)
TWH	\$ 200.00 (\$50, \$50, \$50 AND \$50)

(h) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 160.**

(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 score" column that is a larger number than the play symbol in the "their score" column in the same game (row) shall win the prize shown in the prize column for that game (row). The bearer of a ticket having winning play symbols in more than one game (row) shall win the sum of the prizes in each winning game (row). Play symbols in different games (rows) may not be combined to win a prize.

(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 160 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:

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- (i) Vary the length of Instant Game Number 160; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 160 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 160.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 160 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the four play spots in the "your score" column and in each of the four play spots in the "their score" column 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) Exactly one prize symbol for each of the four games must appear under the latex covering in the prize column on the front of the ticket.

(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:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
0	ZER
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$7.00," "\$9.00," "\$10.00," "\$25.00," "\$45.00," "\$50.00," "\$100.00," and "\$2,000." One of these prize symbols appears in each of the nine innings.

(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 161, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 7.00	SVN DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 25.00	TWF DOL
\$ 45.00	FORTYFV
\$ 50.00	\$FIFTY\$
\$ 100	ONEHUND
\$ 2,000	TWOTHOU

(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 16100001-1-000 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 161 constitute the "pack number" which starts at 16100001; 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

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 (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-161 Instant Game Number 161 ("\$2 Baseball Scoreboard"). (1) Definitions for Instant Game Number 161.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the nine play spots labeled "your runs" and in each of the nine play spots labeled "their runs" under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. The play area shall be labeled "1st Inning," "2nd Inning," "3rd Inning," "4th Inning," "5th Inning," "6th Inning," "7th Inning," "8th Inning," and "9th Inning."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out,

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front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 161, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
TWO	\$ 2.00	(\$1 AND \$1)
THR	\$ 3.00	(\$1, \$1 AND \$1; \$2 AND \$1)
SIX	\$ 6.00	(\$1, \$1, \$1, \$1, \$1 AND \$1)
NIN	\$ 9.00	(\$1, \$1, \$1, \$1, \$1, \$1, \$1, \$1 AND \$1; \$7, \$1 AND \$1)
EGN	\$ 18.00	(\$2, \$2, \$2, \$2, \$2, \$2, \$2, \$2 AND \$2; \$9, \$2, \$1, \$1, \$1, \$1, \$1, \$1 AND \$1)
TFV	\$ 35.00	(\$5, \$5, \$5, \$5, \$5, \$4, \$3, \$2 AND \$1)
NTY	\$ 90.00	(\$10, \$10, \$10, \$10, \$10, \$10, \$10, \$10 AND \$10; \$45, \$9, \$9, \$9, \$9 AND \$9)
FRH	\$ 400.00	(\$50, \$50, \$50, \$50, \$50, \$50, \$50, \$25 AND \$25; \$100, \$100, \$100 AND \$100)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 161.**

(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: The bearer of a ticket having a play symbol in the "your runs" column that is a larger number than the play symbol in the "their runs" column in that inning shall win the prize shown for that inning. The bearer of a ticket having winning play symbols in more than one inning shall win the sum of the prizes in each inning. Play symbols in different innings may not be combined to win a prize.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as 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 161 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 161; and/or

(ii) Vary the number of tickets sold in Instant Game Number 161 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 161.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 161 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the nine play spots in the "your runs" column and in each of the nine play spots in the "their runs" column 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 innings shall have a prize symbol within 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 (a) of this subsection is invalid and ineligible for any prize.

**AMENDATORY SECTION** (Amending Order 83, filed 12/16/85)

**WAC 315-04-220 Limited off premises sales permit.**

(1) The director may permit any lottery retailer who has been issued a general or provisional license to sell tickets in locations other than that specified on its license and to employ persons to make such sales provided that:

(a) A lottery retailer requesting a "limited off premises sales permit" shall submit an application, completed in its entirety, using a form approved by the director.

(b) An application for a "limited off premises sales permit" for instant lottery tickets must be submitted to the lottery a minimum of thirty days prior to the event to provide adequate time for processing. An application for a "limited off premises sales permit" for on-line games must be submitted a minimum of ~~(sixty)~~ thirty days prior to the event to provide adequate time for processing. Applications received after these time limits may not be approved.

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(c) The geographical area and type of location in which such sales are requested shall be individually approved by the director.

(d) Each lottery retailer making such sales shall be individually approved by the director and shall display identification in such form and manner as shall be prescribed by the director.

(e) The lottery retailer and its employees shall abide by such other instructions and restrictions as may be prescribed by the director to govern such sales.

(2) The lottery retailer's license shall bear an addendum with the phrase "limited off premises sales permitted," and the licensed agent shall display with its license the addendum which sets forth the terms and conditions under which such sales may be made. A photocopy of the addendum shall be posted at each location where off premises sales are permitted.

(3) Lottery retailers must redeem (~~low-tier winning~~) all tickets (~~sold~~) winning \$600 or less presented for redemption at the off premises location (~~at that location~~) and at their licensed location. The location of the licensed location must be posted at the off premises location. Lottery retailers must also provide claim forms to holders of (~~high-tier winning~~) tickets winning more than \$600 at both locations.

(4) The "limited off premises sales permit" shall be valid for not more than thirty days and may be renewed twice, if approved by the director, for periods not to exceed thirty days each.

(5) Lottery retailers granted "limited off premises sales permits" will not be required to conduct other licensed business activities at the off premises locations.

(6) Lottery retailers granted "limited off premises sales permits" shall bear all costs associated with such sales including but not limited to construction of booths, stands, etc.; telephone line installation; telephone line charges and installation of a dedicated electric circuit, provided, that the director, in his/her sole discretion, may agree that the lottery will bear some or all of said associated costs.

**WSR 96-03-040**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Order 3940—Filed January 10, 1996, 1:13 p.m.]

Date of Adoption: January 10, 1996.

Purpose: Amendment of the rule requires the department to recoup from time-loss compensation only the portion of AFDC received by the injured worker and his/her natural, adoptive or stepchild(ren).

Citation of Existing Rules Affected by this Order: Amending WAC 388-218-1510 Time-loss compensation—Lien.

Statutory Authority for Adoption: RCW 74.04.050, 43.20B.720, Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice.

Adopted under notice filed as WSR 95-24-059 on December 1, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 10, 1996  
 Merry Kogut  
 Supervisor  
 Rules and Policies  
 Assistance Unit

AMENDATORY SECTION (Amending Order 3861, filed 6/28/95, effective 7/29/95)

**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.

(4) When an assistance unit consists of unmarried parents, the department shall:

(a) Recover time-loss benefits as though the injured worker and the injured worker's dependents comprise a separate assistance unit; and

(b) Consider any common children to be part of the injured worker's assistance unit; and

(c) Recover from time-loss compensation only the portion of AFDC received by the injured worker and the injured worker's natural, adoptive or stepchildren.

(5) 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))~~ (6) 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))~~ (7) 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;

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(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)) (8) The department shall advise a client of the provisions in this section when the client may be eligible for time-loss compensation.

((8)) (9) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

**WSR 96-03-041**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 94-21—Filed January 10, 1996, 3:54 p.m.]

Date of Adoption: January 10, 1996.

Purpose: Amend the existing regulation to allow ecology to increase fees which will allow for funding of the water quality wastewater discharge permit program.

Citation of Existing Rules Affected by this Order: Repealing WAC 173-224-070 Credits; and amending chapter 173-224 WAC, Wastewater discharge permit fee.

Statutory Authority for Adoption: Chapter 90.48 RCW. Adopted under notice filed as WSR 95-15-045 on July 13, 1995.

Changes Other than Editing from Proposed to Adopted Version: (1) Fee increase for FY 97 will be 4.45% rather than 4.47%; (2) delete municipal stormwater fee for city of Spokane; and (3) delete section that would automatically change fees to match the state fiscal growth factor and the program funding level without going through formal rule making.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 1.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 3, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 January 10, 1996  
 Mary G. Riveland  
 Director

AMENDATORY SECTION (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

**WAC 173-224-040 Permit fee schedule.** (1) Application fee. In addition to the annual fee, first time applicants (except those applying for coverage under a general permit) will pay a one time application fee of twenty-five percent of the annual permit fee, or \$250.00, whichever is greater. An application fee will be assessed for RCRA sites regardless of whether a new permit is being issued or an existing permit for other than the discharge resulting from the RCRA corrective action, is being modified.

(2) Industrial facility categories.

<u>INDUSTRIAL FACILITY CATEGORIES</u>	<u>ANNUAL PERMIT FEE</u>
Aluminum Alloys	\$9,960.00
Aluminum and Magnesium Reduction Mills	
a. NPDES Permit	58,736.00
b. State Permit	29,368.00
Aluminum Forming	29,879.00
Aggregate Production	
a. Mining Activities	
1. Mining, screening, washing and/or crushing	1,714.00
2. Inactive Sites	
A. Single site	379.00
B. Single Owner/multiple site (fee per site)	
i. 1 site will pay	379.00
ii. Additional sites 2 < 6 will pay	214.00
iii. Additional sites 6 < 11 will pay	143.00
iv. Additional sites 11 and greater will pay	71.00
The final fee for single owner/multiple inactive sites is the total sum of all the subcategories.	
b. Asphalt Production	
1. 0 < 50,000 tons/yr.	714.00
2. 50,000 < 300,000 tons/yr.	1,714.00
3. 300,000 tons/yr. and greater	2,143.00
c. Concrete Production	
1. 0 < 25,000 cu. yds/yr.	714.00
2. 25,000 < 200,000 cu. yds/yr.	1,714.00
3. 200,000 cu. yds/yr. and greater	2,143.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mining activities and/or concrete and/or asphalt production categories.	
Aquaculture	
a. Finfish hatching and rearing	2,988.00
b. Shellfish hatching	102.00
Boat Yards	
a. With storm water only discharge	255.00
b. All others	511.00
Coal Mining and Preparation	
a. < 200,000 tons per year	3,984.00
b. 200,000 < 500,000 tons per year	8,964.00
c. 500,000 < 1,000,000 tons per year	15,935.00
d. 1,000,000 tons per year and greater	29,879.00
Combined Industrial Waste Treatment	
a. < 10,000 gpd	1,992.00
b. 10,000 < 50,000 gpd	4,980.00
c. 50,000 < 100,000 gpd	9,960.00
d. 100,000 < 500,000 gpd	19,919.00
e. 500,000 gpd and greater	29,879.00
Combined Food Processing Waste Treatment Facilities	9,960.00
Combined Sewer Overflow System	
a. < 50 acres	1,992.00
b. 50 < 100 acres	4,980.00
c. 100 < 500 acres	9,976.00
d. 500 acres and greater	7,968.00
Commercial Laundry	255.00

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Concentrated Animal Feeding Operation (Including dairies)

Table with 2 columns: Category (a-e) and Amount (102.00 to 1,022.00)

Crop Preparing

Table with 2 columns: Category (a-l) and Amount (199.00 to 11,952.00)

Facilities Not Otherwise Classified

Table with 2 columns: Category (a-f) and Amount (996.00 to 29,879.00)

Flavor Extraction

Table with 2 columns: Category (a) and Amount (102.00)

Food Processing

Table with 2 columns: Category (a-k) and Amount (996.00 to 29,879.00)

Fuel and Chemical Storage

Table with 2 columns: Category (a-d) and Amount (966.00 to 9,960.00)

Hazardous Waste Clean Up Sites

Table with 2 columns: Category (a-b) and Amount (2,613.00 to 10,215.00)

Ink Formulation and Printing

Table with 2 columns: Category (a-d) and Amount (1,532.00 to 5,108.00)

Inorganic Chemicals Manufacturing

Table with 2 columns: Category (a-f) and Amount (4,980.00 to 39,839.00)

Iron and Steel

Table with 2 columns: Category (a-b) and Amount (9,960.00 to 19,919.00)

Metal Finishing

Table with 2 columns: Category (a-f) and Amount (1,195.00 to 29,879.00)

Nonecontact Cooling Water with Additives

Table with 2 columns: Category (a-i) and Amount (623.00 to 19,919.00)

Nonecontact Cooling Water Without Additives

Table with 2 columns: Category (a-i) and Amount (498.00 to 15,935.00)

Nonferrous Metals Forming

Table with 2 columns: Category and Amount (9,960.00)

Ore Mining

Table with 2 columns: Category (a-c) and Amount (1,992.00 to 15,935.00)

Organic Chemicals Manufacturing

Table with 2 columns: Category (a-c) and Amount (9,960.00 to 29,879.00)

Petroleum Refining

Table with 2 columns: Category (a-c) and Amount (19,919.00 to 79,677.00)

Photofinishers

Table with 2 columns: Category (a-b) and Amount (797.00 to 1,992.00)

Power and/or Steam Plants

Table with 2 columns: Category (a-d) and Amount (3,984.00 to 15,935.00)

Pulp, Paper and Paper Board

Table with 2 columns: Category (a-e) and Amount (9,960.00 to 89,637.00)

Radioactive Effluents and Discharges (RED)

Table with 2 columns: Category (a-c) and Amount (19,281.00 to 55,116.00)

RCRA Corrective Action Sites

Table with 2 columns: Category and Amount (14,000.00)

Seafood Processing

Table with 2 columns: Category (a-d) and Amount (996.00 to 9,960.00)

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<b>b. Facilities covered under the Baseline</b>		
<u>Industrial Storm Water General Permit</u>	<u>279.00</u>	<u>291.00</u>
<b>c. Construction activities covered under the Baseline Industrial Storm Water General Permit</b>		
	<u>279.00</u>	<u>291.00</u>
<b>Textile Mills</b>	<u>41,833.00</u>	<u>43,747.00</u>
<b>Timber Products</b>		
<b>a. Log Storage</b>	<u>2,094.00</u>	<u>2,187.00</u>
<b>b. Veneer</b>	<u>4,188.00</u>	<u>4,374.00</u>
<b>c. Sawmills</b>	<u>8,377.00</u>	<u>8,750.00</u>
<b>d. Hardwood, Plywood</b>	<u>14,658.00</u>	<u>15,310.00</u>
<b>e. Wood Preserving</b>	<u>20,941.00</u>	<u>21,873.00</u>
<b>Vegetable/Bulb Washing Facilities</b>		
<b>a. &lt; 1,000 gpd</b>	<u>69.00</u>	<u>72.00</u>
<b>b. 1,000 - &lt; 5,000 gpd</b>	<u>139.00</u>	<u>145.00</u>
<b>c. 5,000 - &lt; 10,000 gpd</b>	<u>276.00</u>	<u>288.00</u>
<b>d. 10,000 - &lt; 20,000 gpd</b>	<u>554.00</u>	<u>579.00</u>
<b>e. 20,000 and greater</b>	<u>918.00</u>	<u>959.00</u>
<b>Vehicle Maintenance and Freight Transfer</b>		
<b>a. &lt; 0.5 acre</b>	<u>2,094.00</u>	<u>2,187.00</u>
<b>b. 0.5 - &lt; 1.0 acre</b>	<u>4,188.00</u>	<u>4,374.00</u>
<b>c. 1.0 acre and greater</b>	<u>6,283.00</u>	<u>6,563.00</u>
<b>Water Plants</b>		
<b>a. Potable water treatment</b>	<u>2,618.00</u>	<u>2,735.00</u>
<b>Wineries</b>		
<b>a. &lt; 500 gpd</b>	<u>214.00</u>	<u>224.00</u>
<b>b. 500 - &lt; 750 gpd</b>	<u>429.00</u>	<u>448.00</u>
<b>c. 750 - &lt; 1,000 gpd</b>	<u>857.00</u>	<u>895.00</u>
<b>d. 1,000 - &lt; 2,500 gpd</b>	<u>1,714.00</u>	<u>1,790.00</u>
<b>e. 2,500 - &lt; 5,000 gpd</b>	<u>2,731.00</u>	<u>2,853.00</u>
<b>f. 5,000 gpd and greater</b>	<u>3,749.00</u>	<u>3,916.00</u>

(a) Facilities other than those in the aggregate production, crop preparing, shipyard, or RCRA categories which operate within several fee categories or subcategories shall be charged from that category or subcategory with the highest fee.

(b) Facilities with existing fee structures that obtain coverage under a general permit other than the industrial and municipal storm water general permits shall be charged a permit fee equaling 70% of the fee category in which they would otherwise belong.

(c) The total annual permit fee for a water treatment plant that primarily serves residential customers shall not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

(d) Crop preparation and aggregate production permittees are required to submit information to the department certifying annual production (calendar year) or unit processes. When required, the information form shall be completed and returned to the department within thirty days after it is mailed to the permittee by the department. Failure to provide this information could result in permit termination.

(i) Information submitted shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized general partner;

(C) In the case of a general partnership, by an authorized partner; or

(D) In the case of a sole proprietorship, by the proprietor.

(ii) The department may verify information submitted and, if it determines that false or inaccurate statements have been made, it may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(e) Fees for crop preparers discharging only noncontact cooling water without additives shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water without additives categories.

(f) Where no clear industrial facility category exists for placement of a permittee, the department may elect to place the permittee in a category with dischargers or permittees that contain or use similar properties or processes and/or a category which contains similar permitting complexities to the department.

(g) Hazardous waste clean up sites and EPA authorized RCRA corrective action sites with whom the department is commencing cost recovery through chapter 70.105D RCW shall not pay a permit fee under chapter 173-224 WAC until such time as the cost recovery under chapter 70.105D RCW ceases.

(h) Any permit holder with the exception of inactive aggregate operations who has not been in continuous operation within a consecutive eighteen-month period or who commits to not being in operation for a consecutive eighteen-month period or longer can have their permit fee reduced to twenty-five percent of the fee which they would be otherwise assessed. This nonoperating mode must be verified by the appropriate ecology staff. Once operations resume, the permit fee shall be returned to the full amount.

Facilities who commit to the minimum eighteen-month nonoperating mode but go back into operation during the same eighteen-month period will be assessed permit fees as if they were active during the entire period.

(i) Fees for inactive aggregate sites that become active will be prorated to reflect the number of days the facility is active during the fiscal year. Facilities that become active more than once in a fiscal year shall pay the full annual fee.

(j) Facilities with subcategories based on gallons per day (gpd) shall have their annual permit fee determined by using the maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit, whichever is greater.

(k) RCRA corrective action sites requiring a waste discharge permit will be assessed a separate permit fee regardless of whether the discharge is authorized by a separate permit or by a modification to an existing permit for a discharge other than that resulting from the corrective action.

**(3) MUNICIPAL/DOMESTIC FACILITIES**

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

<del>((i) Residential Annual Permit Fee</del>	
<del>Equivalents</del>	
<del>(RE)</del>	
<del>&lt; 250,000</del>	<del>————— \$1.23 per RE</del>
<del>&gt; 250,000</del>	<del>————— \$ .74 per RE))</del>

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<u>(i) Residential Equivalents (RE)</u>	<u>FY 96 Annual Permit Fee</u>	<u>FY 97 Annual Permit Fee</u>
<u>&lt; 250,000</u>	<u>\$1.29 per RE</u>	<u>\$1.35 per RE</u>
<u>&gt; 250,000</u>	<u>.78 per RE</u>	<u>.81 per RE</u>

(ii) In addition to the municipal annual permit fee, a biosolids surcharge amounting to five percent of the annual permit fee will also be assessed for municipalities who do not incinerate their sludge.

(iii) Municipal storm water permit annual fee for only the entities listed below will be:

<u>(Name of Entity)</u>	<u>Annual Fee</u>
<u>King County</u>	<u>\$ 22,688.00</u>
<u>Snohomish County</u>	<u>22,688.00</u>
<u>Pierce County</u>	<u>22,688.00</u>
<u>Tacoma, City of</u>	<u>22,688.00</u>
<u>Seattle, City of</u>	<u>22,688.00</u>
<u>Department of Transportation</u>	<u>22,688.00</u>

<u>Name of Entity</u>	<u>FY 96 Annual Permit Fee</u>	<u>FY 97 Annual Permit Fee</u>
<u>King County</u>	<u>\$ 23,852.00</u>	<u>\$ 24,913.00</u>
<u>Snohomish County</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Pierce County</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Tacoma, City of</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Seattle, City of</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Department of Transportation</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Clark County</u>	<u>23,852.00</u>	<u>24,913.00</u>
<u>Spokane, County</u>	<u>23,852.00</u>	<u>24,913.00</u>

Facilities listed in (a)(iii) of this subsection shall pay an annual fee for fiscal year ((1994)) 1996 and fiscal year ((1995)) 1997 regardless of the permit issuance date or the number of municipal storm water permits under which they are covered.

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities and which treats each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made) is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made) is determined as in (a) of this subsection.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

<u>(Permitted Flows)</u>	<u>Annual Permit Fee</u>
<u>.1 MGD and Greater</u>	<u>\$4,980.00</u>
<u>.05 MGD to &lt; .1 MGD</u>	<u>1,992.00</u>
<u>.0008 MGD to &lt; .05 MGD</u>	<u>996.00</u>
<u>&lt; .0008 MGD</u>	<u>299.00</u>

<u>Permitted Flows</u>	<u>FY 96 Annual Permit Fee</u>	<u>FY 97 Annual Permit Fee</u>
<u>.1 MGD and Greater</u>	<u>\$5,235.00</u>	<u>\$5,468.00</u>
<u>.05 MGD to &lt; .1 MGD</u>	<u>2,094.00</u>	<u>2,187.00</u>
<u>.0008 MGD to &lt; .05 MGD</u>	<u>1,047.00</u>	<u>1,094.00</u>
<u>&lt; .0008 MGD</u>	<u>314.00</u>	<u>328.00</u>

Privately-owned domestic wastewater facilities shall have their annual permit fee determined by using the maximum daily flow or maximum monthly average permitted flow in million gallons per day, whichever is greater, as specified in the waste discharge permit.

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if the facility charges different municipalities differing single-family residential user charges, the permit holder may divide the amount received from each municipality by the annual

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user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days on which flow was measured. Data for this calculation must

be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Failure to return the form could result in permit termination. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor; or

(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

**AMENDATORY SECTION** (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

**WAC 173-224-050 Permit fee computation and payments.** (1) The department shall charge permit fees based on the permit fee schedule contained in WAC 173-224-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Permit fees must be received by the department within forty-five days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis. In cases where a new permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee (~~(accordingly)~~) on a quarterly basis. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(2) Permit fee computation for individual permits. Computation of permit fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the

permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48.200, computation shall begin on the sixty-first day after the department accepts a completed application. In the case of NPDES permit holders who submit a new, updated permit application containing information which could change their assigned permit fee, computation and permit fee category reassignment begins upon acceptance of the application by the department. Permits terminated during the fiscal year will have their fees prorated as follows:

(a) Permit coverage for up to three months will pay twenty-five percent of the annual permit fee;

(b) Permit coverage for three to six months will pay fifty percent of the annual permit fee;

(c) Permit coverage for six to nine months will pay seventy-five percent of the annual permit fee; and

(d) Permit coverage for nine months or greater will pay one hundred percent of the annual permit fee.

(3) Permit fee computation for general permits. Computation of fees for permittees covered under a general permit (with the exception of permittees covered under the baseline industrial storm water general permit and municipal storm water general permit) begins at the end of the permit application coverage period, regardless of the date of submission of the notice of intent. Any facility that is an existing operation requiring general permit coverage but that does not apply for a permit during the permit application coverage period will ~~(, in addition to paying)~~ incur fees beginning at the end of the application coverage period ~~(, be assessed a late charge of up to twenty-five percent of the annual permit fee depending upon the degree of lateness. The late charge will be calculated as follows: The number of days late divided by three hundred sixty-five (number of days in the state fiscal year) multiplied by the annual fee assessed).~~ Permits terminated during the fiscal year will have their fees prorated as described in subsection (2)(a), (b), (c) and (d) of this section.

(4) Permit fees for sand and gravel (aggregate) general permittees will be assessed as in subsection (3) of this section and:

(a) A mining facility that is active for three months or more during the state fiscal year will be considered active for the full year for fee purposes. A mining facility that is active for less than three months shall ~~((have their fee prorated dependent upon the actual time the facility is active and inactive))~~ be considered inactive for fee calculation purposes.

(b) Inactive sites that become active for only concrete and/or asphalt production will be assessed a prorated fee for the actual time inactive. For the actual time a concrete and/or asphalt facility is active, fees will be based on total production of concrete and/or asphalt.

(c) Fees for continuously active sites that produce concrete and/or asphalt will be based on the average of the three previous calendar years production totals. Existing facilities must provide the department with the production totals for concrete and/or asphalt produced during the previous three calendar years or for the number of full calendar years of operation if less than three. New facilities with no historical asphalt and/or concrete production data will have their first year fee based on the production levels reported on the notice of intent for coverage under the

National Pollutant Discharge Elimination System and State Waste Discharge Permit for Process Water and Storm Water Discharges Associated with Sand and Gravel Operations, Rock Quarries and Similar Mining Facilities including Stockpiles of Mined Materials, Concrete Batch Operations and Asphalt Batch Operations general permit. The second year fee will be determined based on the actual production during the first year and estimated production for the second year. The third year fee will be determined based on the average of actual production for the first two years and estimated for the third year. Fee calculation for subsequent years will be based on the average production values of previous years.

(5) Fees for crop preparation general permittees will be assessed as in subsection (3) of this section and will be computed on the three previous calendar years production totals. Existing facilities must provide the department with the production totals in the manner described in WAC 173-224-040 (2)(d). New facilities with no historical production data will have their first year fee based on the estimated production level for that year. The second year fee will be determined based on the actual production during the first year and estimated production for the second year. The third year fee will be determined based on the average of actual production for the first two years and estimated for the third year. Fee calculation for subsequent years will be based on the average production values of previous years.

(6) Permittees covered under the baseline industrial storm water general permit before July 1, 1993, will have their annual permit fees calculated beginning on July 1, 1993. Facilities that are existing operations prior to July 1, 1993, and apply for permit coverage after July 1, 1993, will be assessed the annual permit fee beginning on July 1, 1993. ~~((Facilities submitting their notice of intent after January 1, 1994, will also be assessed a late charge of up to twenty-five percent of the annual fee assessed depending upon the degree of lateness. The late charge will be calculated as described in subsection (2) of this section.))~~ Construction activities receiving coverage under the baseline industrial storm water general permit after July 1, 1993, will be assessed a permit fee beginning upon the permit issuance date. ~~((Construction storm water permits terminated during the fiscal year will have their fees prorated as follows:~~

~~(a) Permit coverage for up to three months will pay twenty-five percent of the annual permit fee;~~

~~(b) Permit coverage for three to six months will pay fifty percent of the annual permit fee;~~

~~(c) Permit coverage for six to nine months will pay seventy-five percent of the annual permit fee; and~~

~~(d) Permit coverage for nine months or greater will pay one hundred percent of the annual permit fee.))~~

(7) Facilities with an existing NPDES and/or state wastewater discharge permit who also have obtained coverage under the baseline industrial storm water general permit shall not pay a permit fee for coverage under the baseline industrial storm water general permit.

(8) Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, ~~((on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted~~

~~activity has been terminated)) during the quarter the termination took place.~~

(9) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Wastewater Discharge Permit Fee Program, P.O. Box 5128, Lacey, Washington 98503-0210.

(10) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

(11) Penalty due on delinquent accounts. The department may charge permit holders a penalty on fee charges that have not been paid by the due date indicated on the billing statement at the rates of:

(a) Ten percent of the assessed fee for the first thirty days late;

(b) Fifteen percent of the assessed fee for between thirty-one days late and sixty days late; and

(c) Twenty-five percent of the assessed fee for between sixty-one days late and ninety days late.

Failure to pay fees and penalties after ninety days may result in termination of the permit or the exercise of such other legal or equitable remedies that ecology is authorized to carry out including, but not limited to, the assessment of additional penalties. Civil penalties issued by the department may be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

**AMENDATORY SECTION** (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

**WAC 173-224-090 Small business fee reduction.** A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

(a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;

(b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);

(c) Have annual sales of one million dollars or less of the goods or services produced using the processes regulated by the waste discharge permit; and

(d) Pay an annual wastewater discharge permit fee greater than five hundred dollars.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

(a) In the case of a corporation, by an authorized corporate officer;

(b) In the case of a limited partnership, by an authorized general partner;

(c) In the case of a general partnership, by an authorized partner; or

(d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to fifty percent of the assessed annual permit fee.

(5) If ~~((due to special economic circumstances the annual permit fee assessed a small business))~~ the annual gross revenue of the goods and services produced using the processes regulated by the waste discharge permit is one hundred thousand dollars or less, and the annual permit fee assessed imposes an extreme hardship to the business, the small business may request an extreme hardship fee reduction. The small business must provide sufficient evidence to support its claim of an extreme hardship. ~~((The factors which the department may consider in whether an applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales; the size of its labor force; the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers; and the average annual profits-))~~ In no case will a permit fee be reduced below one hundred dollars.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-224-070 Credits.

#### **WSR 96-03-046**

#### **PERMANENT RULES**

#### **DEPARTMENT OF LICENSING**

[Filed January 11, 1996, 3:20 p.m.]

Date of Adoption: January 11, 1996.

Purpose: The rule making is to recognize amendments to applicable disclosure laws regulating the release of vessel owner information and to make administrative amendments.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-088, 308-93-440, and 308-93-670.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

Other Authority: RCW 46.12.380.

Adopted under notice filed as WSR 95-23-061 on November 16, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making:

New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 3, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1996  
Kathy Baros Friedt  
Director

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

**WAC 308-93-088 Disclosure violations, penalties.**

(1) The department may review the activities of a person who receives vessel record information to ensure compliance with the limitations imposed on the use of the information. The department shall suspend or revoke for up to five years the privilege of obtaining vessel record information of a person found to be in violation of chapter 42.17 RCW, this chapter, or a disclosure agreement executed with the department.

(2) In addition to the penalty in subsection (1) of this section:

(a) The unauthorized disclosure of information from a department vessel record; or

(b) The use of a false representation to obtain information from the department's vessel records; or

(c) The use of information obtained from the department vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement, is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail not to exceed one year, or by both such fine and imprisonment for each violation.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

**WAC 308-93-440 Lack of proper release.** If the registered or legal owner(s), as shown in the records of the department or ~~((the records of the))~~ a foreign state issuing the last certificate of ~~((title))~~ ownership and/or registration of a vessel, has not released his/her interest in the vessel, by endorsement on the certificate of ownership or by a satisfactory release of interest, the following must be attached to an application for Washington certificate of ~~((title))~~ ownership:

(1) Proper documentation authorized ~~((by other sections of this chapter))~~ in WAC 308-93-430 to be used in lieu of a release by the registered or legal owner; or

(2) A bond in accordance with WAC 308-93-210; or

(3) The following, if satisfactory to the department:

(a) An affidavit by the applicant stating the reasons the person is unable to obtain a release of interest from the registered and/or legal owner(s) of record; and

(b) Evidence of ownership of the vessel by the applicant such as, but not limited to, a bill of sale; and

(c) Evidence of attempts to locate the owner(s) of record such as, but not limited to, copies of correspondence sent by registered or certified mail, return receipt requested to the last known address of the owner ((as well as returned receipts showing such correspondence was sent by registered or certified mail, return receipt requested)).

(4) For purposes of this section, an individual purchaser or transferee of a vessel may request the name and address of the owner(s) of record for that vessel by satisfying subsection (3)(a) and (b) of this section and completing a form provided by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vessel.

AMENDATORY SECTION (Amending WSR 91-03-089, filed 1/18/91, effective 2/18/91)

**WAC 308-93-670 Disclosure of individual vessel owner names and addresses.** (1) Any business entity requesting the name ~~((s and))~~ or address of ~~((an individual))~~ a vessel owner ~~((must))~~ pursuant to WAC 308-93-087 shall complete a form provided by the department and furnish verification of its identity as a business entity. For purposes of this section, acceptable verification includes:

(a) A copy of the requesting entity's unexpired Washington master business license; or

(b) For businesses not authorized to do business in this state, a copy of its unexpired business license issued by the out-of-state jurisdiction where the business entity is authorized to do business.

~~(2) ((Any individual purchaser or transferee of a vessel may request the name and address of previous owners of that vessel by providing verification that the person is the purchaser or transferee of the vessel. Acceptable verification includes:~~

~~(a) A properly released vessel certificate of ownership; or~~

~~(b) A certificate of ownership issued in the requester's name; or~~

~~(c) A bill of sale from the vessel owner on record with the department; or~~

~~(d) A bill of sale from a person claiming to be a more recent owner than the owner of record with the department.~~

~~(3) Any person)) A business entity requesting ((the)) names or ((address)) addresses of ((an)) individual vessel owners ~~((shall complete a form provided by))~~ on a continuing basis may execute an agreement with the department giving their full business ((or individual)) name and the purpose for ((the requested)) requesting the information. If the purpose for the information is ((in connection with a prior business transaction, that prior business transaction must be identified)) not contrary to WAC 308-93-087, the information may be provided without separate written requests for disclosure of owner's name or address on each vessel of interest.~~

WSR 96-03-047

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 11, 1996, 3:22 p.m.]

Date of Adoption: January 11, 1996.

Purpose: The rule making is to recognize amendments to applicable disclosure laws regulating the release of vessel owner information and to make administrative amendments.

Citation of Existing Rules Affected by this Order:  
Amending WAC 308-56A-090 and 308-56A-210.

Statutory Authority for Adoption: RCW 42.17.250(1) and 46.01.110.

Other Authority: RCW 46.12.151 and 46.12.380.

Adopted under notice filed as WSR 95-23-059 on November 16, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1996

Kathy Baros Friedt

Director

**AMENDATORY SECTION** (Amending WSR 91-03-088, filed 1/18/91, effective 2/18/91)

**WAC 308-56A-090 Disclosure of individual vehicle owner names and addresses.** (1) Any business entity requesting the name~~(s) and~~) or address of ~~((an individual))~~ a vehicle owner ~~((must))~~ pursuant to RCW 46.12.380 shall complete a form provided by the department and furnish verification of its identity as a business entity. For purposes of this section, acceptable verification includes:

(a) A copy of the requesting entity's unexpired Washington master business license; or

(b) For businesses not authorized to do business in this state, a copy of its unexpired business license issued by the out-of-state jurisdiction where the business entity is authorized to do business.

(2) ~~((Any individual purchaser or transferee of a vehicle may request the name and address of previous owners of that vehicle by providing verification that the person is the purchaser or transferee of the vehicle. Acceptable verification includes:~~

~~(a) A properly released vehicle certificate of ownership; or~~

~~(b) A certificate of ownership issued in the requester's name; or~~

~~(c) A bill of sale from the vehicle owner on record with the department; or~~

~~(d) A bill of sale from a person claiming to be a more recent owner than the owner of record with the department.~~

(3) ~~Any person))~~ A business entity requesting ~~((the))~~ names or addresses of ~~((an))~~ individual vehicle owners ~~((shall complete a form provided by))~~ on a continuing basis may execute an agreement with the department giving their full business ~~((or individual))~~ name and the purpose for ~~((the~~

~~requested))~~ requesting the information. If the purpose for the information is ~~((in connection with a prior business transaction, that prior business transaction must be identified))~~ not contrary to RCW 46.12.380, the information may be provided without separate written requests for disclosure of owner's name or address on each vehicle of interest.

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-210 Lack of proper release of interest.** If the registered or legal owner<sub>1</sub> as shown in the records of the department or ~~((the records of the))~~ a foreign state issuing the last certificate of ~~((title))~~ ownership and/or registration of a vehicle<sub>2</sub> has not released his/her interest in the vehicle<sub>2</sub> by endorsement on the certificate of ownership or by a satisfactory release of interest, the following must be attached to an application for Washington certificate of ~~((title))~~ ownership:

(1) Proper documentation authorized ~~((by other sections of this chapter))~~ in WAC 308-56A-205 to be used in lieu of a release by the registered or legal owner; or

(2) A bond in accordance with RCW 46.12.151; or

(3) The following, if satisfactory to the department:

(a) An affidavit by the applicant stating the reasons the person is unable to obtain a release of interest from the registered and/or legal owner of record; and

(b) Evidence of ownership of the vehicle by the applicant such as, but not limited to, a bill of sale; and

(c) Evidence of attempts to locate the owner of record such as, but not limited to, copies of correspondence sent by registered or certified mail, return receipt requested to the last known address of the owner ~~((as well as returned receipts showing such correspondence was sent by registered or certified mail, return receipt requested))~~.

(4) For purposes of this section, an individual purchaser or transferee of a vehicle may request the name and address of the owner(s) of record for that vehicle by satisfying subsection (3)(a) and (b) of this section and completing a form provided by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vehicle.

WSR 96-03-048

PERMANENT RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed January 12, 1996, 9:45 a.m.]

Date of Adoption: January 12, 1996.

Purpose: To prescribe, by rule, the requirements and process for petitioning an agency to adopt, repeal, or amend a rule under RCW 34.05.330.

Statutory Authority for Adoption: Section 703, chapter 403, Laws of 1995.

Adopted under notice filed as WSR 95-24-063 on December 4, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 5, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 5, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
January 12, 1996

Cameron R. Dightman  
Rules Coordinator

**Chapter 82-05 WAC  
PETITION PROCESS FOR ADOPTION,  
REPEAL OR AMENDMENT OF AN AGENCY RULE**

**NEW SECTION**

**WAC 82-05-010 Purpose.** This chapter describes the requirements and process for petitioning an agency to adopt, repeal, or amend a rule under RCW 34.05.330.

(2)

When you are:	Petition should include:
Proposing a new rule	Text of proposed rule or description of its provisions
Requesting amendment of existing agency rule	Name, title, number of rule, and text or description of amendment
Requesting repeal of existing agency rule	Name, title, number of rule, and description of effects of repeal

The petition should contain sufficient information so that the agency and public can understand the proposal.

(3) You, the petitioner, can obtain a standard petition form from the office of financial management or any state agency involved in rule making. Agencies must accept petitions submitted using the standard form or in any other format that provides the information described in (1) or (2) of this section.

**NEW SECTION**

**WAC 82-05-030 How do I submit a petition?** (1) Petitions for adoption, repeal, or amendment of a rule must be sent to the rules coordinator of the agency responsible for administration of the rule.

(2) Submission of a petition is defined as receipt of the petition by the administering agency.

**NEW SECTION**

**WAC 82-05-020 What information must I include in a petition?** (1) Every petition for adoption, repeal, or amendment of a rule must include the following:

- (a) The name of the agency responsible for administering the rule, and
- (b) The rationale for adoption of a new rule or amendment or repeal of an existing rule.
- (c) In addition to any other concerns, you, the petitioner, are encouraged to address whether:
  - (i) the rule is authorized
  - (ii) the rule is needed
  - (iii) the rule conflicts with or duplicates other federal, state, or local laws
  - (iv) alternatives to the rule exist that will serve the same purpose at less cost
  - (v) the rule applies differently to public and private entities
  - (vi) the rule serves the purposes for which it was adopted
  - (vii) the rule imposes unreasonable costs
  - (viii) the rule is clearly and simply stated, and
  - (ix) the rule differs, without adequate justification, from a federal law which applies to the same activity or subject matter.

**NEW SECTION**

**WAC 82-05-040 What happens after a petition is submitted?** (1) Within a reasonable time, the administering agency will send you, the petitioner, acknowledgement of receipt of the petition, including the name and telephone number of a contact person.

(2) No later than sixty days after receipt of a petition, the agency must either

- (a) initiate rule-making proceedings in accordance with chapter 34.05 RCW, or
- (b) deny the petition in writing, stating its reasons for the denial and specifically addressing the concerns stated in the petition. Where appropriate, the agency must indicate alternative means by which the agency will address the concerns raised in the petition.

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NEW SECTION

**WAC 82-05-050 How can I appeal agency denial of a petition?** (1) Within thirty days of the denial, you, the petitioner, may appeal the denial to the governor.

(2) The governor will process the appeal according to RCW 34.05.330(2).

**WSR 96-03-049****PERMANENT RULES****STATE BOARD FOR****COMMUNITY AND TECHNICAL COLLEGES**

[Filed January 12, 1996, 11:28 a.m., effective January 12, 1996]

Date of Adoption: January 11, 1996.

Purpose: Tuition charges for certain ungraded courses.

Citation of Existing Rules Affected by this Order:

Amending WAC 131-28-026.

Statutory Authority for Adoption: Chapters 28B.15 and 28B.50 RCW.

Adopted under notice filed as WSR 96-01-022 on December 11, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediate, to avoid emergency rules lapsing on January 15, 1996, and for the general welfare of the students/college personnel. RE: Continuity of charges.

January 12, 1996

Claire C. Krueger

Administrative Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-13-070, filed 6/20/95, effective 7/21/95)

**WAC 131-28-026 Tuition charges for certain ungraded courses.** (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025.

(2) Ungraded courses shall meet the following qualifications:

(a) The primary intent of offering the course is other than providing academic credit applicable to an associate or higher degree.

(b) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(c) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge other than that intended to lead to initial employment.

(d) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(e) The course is not offered primarily as an integral part of any lower-division curriculum or program.

(f) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journeyperson training in cooperation with joint apprenticeship and training committees.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult Basic Education, English as a Second Language, GED preparation: No charge.

(b) Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge. Parent education students taking eleven to eighteen credits shall not be charged for those credits.

(c) Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices indentured with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: ~~((Fifty))~~ Sixty percent reduction from the standard per credit tuition and services and activities fee charge. The college may convert the credit hour charge to a rounded amount per clock hour: *Provided*, That until June 1, 1997, the waiver shall be ~~((sixty percent))~~ two-thirds.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15.031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

**WSR 96-03-051****PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed January 12, 1996, 3:42 p.m., effective March 1, 1996]

Date of Adoption: January 3, 1996.

**WSR 96-03-052**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed January 12, 1996, 3:47 p.m.]

**Purpose:** To increase fees charged by the nursing assistant program to meet the actual cost of investigative and legal services due to disciplinary activities; and to delete fees no longer collected.

**Citation of Existing Rules Affected by this Order:** Amending WAC 246-841-990.

**Statutory Authority for Adoption:** Chapter 18.88A RCW.

Adopted under notice filed as WSR 95-23-113 on November 22, 1995.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, amended 0, repealed 0; **Federal Rules or Standards:** New 0, amended 0, repealed 0; **or Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, amended 0, repealed 0.

**Number of Sections Adopted on the Agency's own Initiative:** New 0, amended 1, repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, amended 0, repealed 0.

**Number of Sections Adopted using Negotiated Rule Making:** New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; **or Other Alternative Rule Making:** New 0, amended 0, repealed 0.

**Effective Date of Rule:** March 1, 1996.

January 11, 1996  
 Bruce A. Miyahara  
 Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-841-990 Nursing assistant—Fees.** The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application - registration	<del>(\$ 5.00)</del> \$ 10.00
Renewal of registration	<del>(10.00)</del> 20.00
Duplicate registration	<del>(5.00)</del> 10.00
<del>((Verification of registration/education</del>	<del>10.00)</del>
Registration late penalty	<del>((10.00)</del> 20.00
<del>((Registration program approval</del>	<del>75.00)</del>
Application for certification	<del>((5.00)</del> 10.00
Certification renewal	<del>((10.00)</del> 20.00
<del>((Verification certification/education</del>	<del>10.00)</del>
Duplicate certification	<del>((5.00)</del> 10.00
Certification late penalty	<del>((10.00)</del> 20.00
<del>((Certification program approval</del>	<del>75.00)</del>

**Date of Adoption:** December 29, 1995.

**Purpose:** To update curriculum, training and certification process of intermediate and advanced life support emergency medical prehospital personnel.

**Citation of Existing Rules Affected by this Order:** Amending WAC 246-976-010.

**Statutory Authority for Adoption:** Chapter 18.71 RCW. Adopted under notice filed as WSR 95-23-116 on November 22, 1995.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, amended 0, repealed 0; **Federal Rules or Standards:** New 0, amended 0, repealed 0; **or Recently Enacted State Statutes:** New 0, amended 0, repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, amended 0, repealed 0.

**Number of Sections Adopted on the Agency's own Initiative:** New 2, amended 1, repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 2, amended 1, repealed 0.

**Number of Sections Adopted using Negotiated Rule Making:** New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; **or Other Alternative Rule Making:** New 2, amended 1, repealed 0.

**Effective Date of Rule:** Thirty-one days after filing.

January 12, 1996  
 Bruce A. Miyahara  
 Secretary

**AMENDATORY SECTION** (Amending Order 323, filed 12/23/92, effective 1/23/93)

**WAC 246-976-010 Definitions.** Unless a different meaning is plainly required by the context, the following words and phrases used in this chapter shall have the meanings indicated:

"ACLS" means advanced cardiac life support, a course developed by the American Heart Association.

"Activation of the trauma system" means a process whereby a prehospital provider identifies the major trauma patient by using the prehospital trauma triage procedures, and notifies from the field both dispatch and medical control, who mobilize resources to care for the patient in accordance with regional patient care procedures.

"Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined in chapter 18.71 RCW.

"Agency response time" means the time from agency notification to arrival on the scene. It is the same as the combination of activation and enroute times defined under system response times in this section.

"Aid service" means an agency, public or private, that operates one or more aid vehicles.

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"Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

"Air ambulance" means a fixed or rotary-winged aircraft that is configured to accommodate a minimum of one litter and two medical attendants with sufficient space to provide intensive life-saving care without interfering with the performance of the flight crew, and has been inspected and licensed by the department as an air ambulance.

"Airway technician" means a person certified to provide mobile airway management as defined in ~~((RCW 18.71-200(2)))~~ this chapter.

"Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

"Ambulance service" means an agency, public or private, that operates one or more ground or air ambulances.

"Approved" means approved by the department of health.

"ATLS" means advanced trauma life support, a course developed by the American College of Surgeons.

"Attending surgeon" means a physician who is board-certified or board-eligible in general surgery, and who has surgical privileges delineated by the facility's medical staff. The attending surgeon is responsible for care of the trauma patient, participates in all major therapeutic decisions, and is present during operative procedures.

"Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

"BP" means blood pressure.

"Certification" means recognition by the department of the competence of an individual who has met predetermined qualifications, and the authorization of the individual to perform certain procedures for which they have been trained or are otherwise qualified.

"CME" means continuing medical education.

"Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an EMS/TC system.

"Consumer" means an individual who is not associated with the EMS/TC system, either for pay or as a volunteer, except for service on the steering committee, licensing and certification committee, or regional or local EMS/TC councils.

"Continuing medical education (CME)" means ongoing education after initial certification for the purpose of maintaining and enhancing skill and knowledge.

"Council" means the local or regional EMS/TC council as authorized under chapter 70.168 RCW.

"Course coordinator" means an individual who has overall administrative responsibility for coordinating an EMS/TC course or program of continuing education.

"CPR" means cardiopulmonary resuscitation.

"Department" means the department of health.

"Designated trauma care service" means a level I, II, III, IV, or V trauma care service, or level I, II, or III pediatric trauma care service, or level I, I-pediatric, II, or III trauma-related rehabilitative service.

"Designation" means a formal determination by the department that a hospital or health care facility is capable of providing designated trauma care services as authorized in RCW 70.168.070.

"Dispatch" means to designate and direct an emergency response unit to a service location.

"E-code" means external cause code, an etiology included in the International Classification of Diseases (ICD).

"ED" means emergency department.

"Emergency medical dispatch (EMD)" means provision of special procedures and trained personnel to ensure the efficient handling of medical emergencies and dispatch of aid. It includes prearrival instructions for CPR and other verbal aid to callers.

"Emergency medical service (EMS)" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

"Emergency medical services and trauma care (EMS/TC) planning and services regions" means geographic areas established by the department in accordance with RCW 70.168.110.

"Emergency medical services and trauma care (EMS/TC) system" means an organized approach to providing personnel, facilities, and equipment for effective and coordinated medical treatment of patients with a medical emergency or injury requiring immediate medical or surgical intervention to prevent death or disability. The emergency medical service and trauma care system includes prevention activities, prehospital care, hospital care, and rehabilitation. The components of an EMS and trauma care system include:

Provision of manpower;

Training of personnel;

Communications;

Transportation;

Facilities;

Critical care units;

Use of public safety agencies;

Use of private agencies;

Consumer participation;

Accessibility to care;

Transfer of patients;

Standard medical recordkeeping and reporting;

Consumer information and education;

Independent review and evaluation, including formal quality assurance programs;

Disaster linkage; and

Mutual aid agreements.

"Emergency medical services and trauma care system plan (EMS/TC plan)" means a plan that identifies state-wide EMS/TC objectives and priorities and identifies equipment, facility, personnel, training, and other needs required to create and maintain a state-wide EMS/TC.

"Emergency medical technician (EMT)" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081.

"EMS/TC" means emergency medical services and trauma care.

"EMT" means emergency medical technician.

"Facility patient care protocols" means the written procedures adopted by the medical staff that direct the care of the patient. These procedures shall be based upon the assessment of the patient's medical needs. The procedures shall follow minimum state-wide standards for trauma care service.

"First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

"HIV/AIDS" means human immunodeficiency virus/acquired immunodeficiency syndrome.

"Hospital" means a facility licensed under chapter 70.41 RCW, or comparable health care facility operated by the federal government or located and licensed in another state.

"Hospital trauma service" means a service designed by the hospital within state guidelines for the treatment of trauma patients, including a formal commitment by the hospital and medical staff to an organized trauma care system and to participation in the regional/state system.

"ICD" means the international classification of diseases, a coding system developed by the World Health Organization.

"ICU" means intensive care unit.

"Indicator" means a quality improvement tool or performance measure used to monitor the quality of important governance, management, clinical, and support processes and outcomes.

"Indicator monitoring system" means a method in which indicators are used to monitor important processes or outcomes of care or service, and indicator data are used to evaluate that care.

"Injury prevention" means any combination of educational, legislative, enforcement, engineering and emergency response initiatives used to reduce the number and severity of injuries.

"Intermediate life support technician" means a person certified to provide levels of intermediate support skills as defined in this chapter.

"IV technician" means a person certified to provide mobile intravenous therapy as defined in (~~RCW 18.71-200(1)~~) this chapter.

"L&C" means licensing and certification.

"Legend drug" means any drug which is required by state law or regulation by the state board of pharmacy to be dispensed on prescription only, or is restricted to use by practitioners only.

"Level I pediatric rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level I pediatric rehabilitative services provide the same services as facilities authorized to provide level I rehabilitative services, except these services are exclusively for children under the age of fifteen years.

"Level I pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.015. Hospitals providing level I services shall provide definitive, comprehensive, specialized care for pediatric trauma patients and shall also provide ongoing research and health care professional education in pediatric trauma care.

"Level II pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.015. Hospitals providing level II services shall provide initial stabilization and evaluation of pediatric trauma patients and

provide comprehensive general medical and surgical care to pediatric patients who can be maintained in a stable or improving condition without the specialized care available in the level I hospital. Complex surgeries and research and health care professional education in pediatric trauma care activities are not required.

"Level III pediatric trauma care services" means pediatric trauma care services as defined by RCW 70.168.-015. Hospitals providing level III services shall provide initial evaluation and stabilization of patients. The range of pediatric trauma care services provided in level III hospitals is not as comprehensive as level I and II hospitals.

"Level I rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level I rehabilitative services provide rehabilitative treatment to patients with traumatic brain injuries, spinal cord injuries, complicated amputations, and other diagnoses resulting in functional impairment, with moderate to severe impairment or complexity. These facilities serve as referral facilities for facilities authorized to provide level II and III rehabilitative services.

"Level II rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level II rehabilitative services treat individuals with musculoskeletal trauma, peripheral nerve lesions, lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area, with moderate to severe impairment or complexity.

"Level III rehabilitative services" means rehabilitative services as defined by RCW 70.168.015. Facilities providing level III rehabilitative services provide treatment to individuals with musculoskeletal injuries, peripheral nerve injuries, uncomplicated lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area but with minimal to moderate impairment or complexity.

"Level I trauma care services" means trauma care services as defined by RCW 70.168.015. Hospitals providing level I services shall have specialized trauma care teams and provide ongoing research and health care professional education in trauma care.

"Level II trauma care services" means trauma care services as defined by RCW 70.168.015. Hospitals providing level II services shall be similar to those provided by level I hospitals, although complex surgeries and research and health care professional education activities are not required to be provided. This does not exclude education or training of prehospital providers.

"Level III trauma care services" means trauma care services as defined by RCW 70.168.015. The range of trauma care services provided by level III hospitals are not as comprehensive as level I and II hospitals.

"Level IV trauma care services" means trauma care services as defined by RCW 70.168.015.

"Level V trauma care services" means trauma care services as defined by RCW 70.168.015. Facilities providing level V services shall provide stabilization and transfer of all patients with potentially life-threatening injuries.

"Licensing and certification committee (L&C committee)" means the emergency medical services licensing and certification advisory committee created by RCW 18.73.040.

"Local council" means a local EMS/TC council authorized by RCW 70.168.120(1).

"Local medical community" means the organized local medical society existing in a county or counties; or in the absence of an organized medical society, majority physician consensus in the county or counties.

"Medical control" means MPD authority to direct the medical care provided by all certified EMS personnel involved in patient care in the prehospital EMS system.

"Medical control agreement" means a written agreement between two or more MPDs, consistent with regional plans, to assure continuity of patient care between counties, and to facilitate assistance.

"Medical program director (MPD)" means an approved emergency medical services medical program director as defined by RCW 18.71.205(4).

"MPD" means medical program director.

"Name code" means the first four letters of the last name, followed by the first and middle initials.

"National uniform data set" means a coding system which describes the functional abilities and disabilities of the disabled person, published by the State University of New York, Buffalo, NY.

"Ongoing training and evaluation" means a course of education as authorized in RCW 18.73.081 (3)(b).

"PALS" means pediatric advanced life support, a course developed by the American Heart Association.

"Paramedic" means a person certified to provide mobile intensive care paramedic services as defined in RCW 18.71.200(3).

"Patient care procedures" means written operating guidelines adopted by the regional EMS/TC council, in consultation with local EMS/TC councils, emergency communications centers and the MPDs, in accordance with state-wide minimum standards. The patient care procedures identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

"Pediatric trauma patient" means trauma patients known or estimated to be less than fifteen years of age.

"Physician" means an individual licensed under the provisions of chapter 18.71 RCW, Physicians, or under the provisions of chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery.

"Practical examination" means a test which is conducted in the initial course, or a test or series of evaluations during a recertification period, wherein the competency of a person is determined on each of the practical skills specified by the department.

"Prehospital" means emergency medical care or transportation rendered to patients prior to hospital admission or during interfacility transfer by licensed ambulance or aid service under chapter 18.73 RCW, by personnel certified to provide emergency medical care under chapters 18.71 and 18.73 RCW, or by facilities providing level V trauma care services as provided for in chapter 18.71 RCW.

"Prehospital agencies" means both public and private providers of prehospital care or interfacility transport.

"Prehospital index" means a scoring system for hospital trauma team activation, incorporating assessment of systolic blood pressure, pulse, respiratory status, and level of consciousness, as described in "Prehospital Index: A scoring system for field triage of trauma victims," Koehler, John J., M.D. et al. *Annals of Emergency Medicine* 1986; 15:178-182.

"Prehospital patient care protocols" means the written procedures adopted by the MPD which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient.

"Prehospital trauma care services" means both public and private agencies that are verified to provide prehospital trauma care.

"Public education" means the use of preventive measures, involving the education of the population at large, targeted groups or individuals, and efforts to alter specific injury-related behaviors.

"Quality assurance (QA)" means an organized method of auditing and evaluating care provided within EMS/TC systems.

"Reciprocity" means the process by which an individual certified in another state, or certified by the University of Washington's school of medicine as authorized by RCW 18.71.200, is certified by the department.

"Region" means a geographic area used for EMS/TC planning, designated by the department in accordance with RCW 70.168.110.

"Regional council" means the regional EMS/TC council established by RCW 70.168.100.

"Regional plan" means the approved plan that identifies region-wide EMS/TC objectives and prioritizes and identifies equipment, facilities, personnel, training, and other needs required to create and maintain a region-wide EMS/TC system. The plan includes a strategy of implementation that identifies regional and local activities to create, operate, maintain, and enhance the system.

"Registered nurse" means an individual licensed under the provisions of chapter 18.88 RCW.

"Rehabilitative services" means a formal program of multidisciplinary, coordinated, and integrated services for evaluation, treatment, education, and training to help individuals with disabling impairments achieve and maintain optimal functional independence in physical, psychosocial, social, vocational, and avocational realms.

"Reinstatement" means the process by which an individual whose EMS certification has expired can be recertified.

"Response area" means a service coverage zone identified in an approved regional plan.

"Rural" means unincorporated or incorporated areas with total populations less than ten thousand people, or with a population density of less than one thousand people per square mile.

"Senior EMT instructor" means an individual approved to be responsible for the quality of instruction of an initial EMS training course.

"Specialized training" means approved training of certified EMS personnel to use a skill, technique, or equipment that is not included in the standard course curriculum.

"State trauma registry" means data collected for examining the entire spectrum of trauma patients and their care, regardless of injury, hospital, or outcome.

"Steering committee" means the EMS/TC steering committee created by RCW 70.168.020.

"Suburban" means an incorporated or unincorporated area with a population of ten thousand to twenty-nine thousand nine hundred ninety nine or any area with a population density of one thousand to two thousand people per square mile.

"System response time" for trauma means the time from an injury until the patient arrives at a designated trauma facility. It includes:

"System access time": The time from discovery to call received;

"911 time": The time it takes the call answerer to: Process the call, including citizen interview; and Give the information to the dispatcher;

"Dispatch time": The time from call received by the dispatcher to the time the agency is notified;

"Activation time": The time from agency notification to start of response;

"Enroute time": The time from the end of activation time to the beginning of on-scene time;

"On scene time": The time the unit is on the scene with the patient. This includes extrication, resuscitation, treatment, and loading;

"Transport time": The time from leaving the scene to arrival at a health care facility;

"Training agency" means an organization or individual, which may include local or regional EMS/TC councils, that is approved to train EMS personnel for initial certification.

"Training physician" means a physician delegated by the MPD and approved by the department to be responsible for specified aspects of training of EMS personnel.

"Trauma" means a major single or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

"Trauma care system" means an organized approach to providing care to trauma patients that provides personnel, equipment, and facilities for effective and coordinated trauma care. The trauma care system includes: Prevention, prehospital care, triage of trauma victims from the scene to designated trauma services, facilities with specific capabilities to provide trauma care, acute hospital care, and rehabilitation services.

"Trauma rehabilitation coordinator" means a person designated to facilitate early rehabilitation interventions and the trauma patient's access to a designated rehabilitation center.

"Trauma surgeon" means a physician who is board certified or board eligible in general surgery, and who has trauma surgery privileges delineated by the facility's medical staff.

"Triage" means the sorting of patients in terms of disposition, destination, or priority. Triage of prehospital trauma victims requires identifying injury severity so that the appropriate care level can be readily assessed according to patient care guidelines.

"Unit of learning" means a method of meeting the CME requirements of this chapter, which includes:

Approved learning objectives that reflect a complete patient care approach and to a topic or group of related topics; and

Measures a student's comprehension of the subject matter by written testing and demonstration of skills.

"Urban" means:

An incorporated area over thirty thousand; or

An incorporated or unincorporated area of at least ten thousand people and a population density over two thousand people per square mile.

"Verification" means the identification of prehospital providers capable of providing verified trauma care services, and is part of the licensure process described in chapter 18.73 RCW.

"Verified trauma care service" means prehospital services as provided for in RCW 70.168.080, and identified in the regional EMS/TC plan as required by RCW 70.168.100, whose capabilities have been verified by the department.

"Wilderness" means any rural area not readily accessible by public or private maintained road.

#### NEW SECTION

#### **WAC 246-976-045 Levels of intermediate life support personnel and advanced life support paramedics.**

(1) Airways technician means a person trained under the supervision of an approved medical program director and certified to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an approved licensed physician.

(2) IV technician means a person trained under the supervision of an approved medical program director and certified to administer intravenous solutions under written or oral authorization of an approved licensed physician.

(3) Intermediate life support technician means a person trained under the supervision of a medical program director and certified to provide levels of intermediate support skills as defined in this chapter.

(4) Paramedic means a person trained under the supervision of an approved medical program director and certified to:

(a) Carry out all phases of advanced cardiac life support;

(b) Administer drugs under written or oral authorization of an approved licensed physician;

(c) Administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(d) Perform endotracheal airway management and other authorized aids to ventilation.

These personnel shall meet requirements of RCW 18.71.200 and this chapter.

#### NEW SECTION

#### **WAC 246-976-165 Levels of certified intermediate life support personnel and paramedics.**

(1) Airway technician means a person trained under the supervision of an approved medical program director and certified to perform endotracheal airway management and other authorized aids to ventilation under written or oral authorization of an approved licensed physician.

(2) IV technician means a person trained under the supervision of an approved medical program director and certified to administer intravenous solutions under written or oral authorization of an approved licensed physician.

(3) Intermediate life support technician means a person trained under the supervision of a medical program director and certified to provide levels of intermediate support skills as defined in this chapter.

(4) Paramedic means a person trained under the supervision of an approved medical program director and certified to:

(a) Carry out all phases of advanced cardiac life support;

(b) Administer drugs under written or oral authorization of an approved licensed physician;

(c) Administer intravenous solutions under written or oral authorization of an approved licensed physician; and

(d) Perform endotracheal airway management and other authorized aids to ventilation.

These personnel shall meet requirements of RCW 18.71.200 and this chapter.

50-30-060	208-630-060	Disclosure of significant developments.
50-30-065	208-630-065	The note.
50-30-068	208-630-068	Contents of disclosure statement to borrower.
50-30-070	208-630-070	Accounting and financial records.
50-30-075	208-630-075	Monetary instruments—Deposit requirements.
50-30-080	208-630-080	Licensees are required to comply with federal and state laws including but not limited to the following.
50-30-085	208-630-085	Licensee with small loan endorsement—Powers—Restrictions.
50-30-090	208-630-090	Audit report by licensee—Financial statements.
50-30-095	208-630-095	Knowledge of the law and regulations.
50-30-100	208-630-100	Trust accounts—Limitations and prohibitions.

**WSR 96-03-059**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed January 12, 1996, 4:40 p.m.]

Date of Adoption: January 10, 1995 [1996].

Purpose: To enact provisions governing the issuance of small loan endorsements to check sellers so they can make small loans; and to recodify the rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 50-30-110; and amending WAC 50-30-010, 50-30-020, 50-30-030, 50-30-040, 50-30-050, 50-30-060, 50-30-070, 50-30-080, 50-30-090, and 50-30-100.

Statutory Authority for Adoption: RCW 43.320.040 and 31.45.200.

Adopted under notice filed as WSR 95-22-106 on November 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: None, however, the rules are being recodified from chapter 50-30 WAC to chapter 208-630 WAC, as shown below:

Old WAC Number	New WAC Number	Title
50-30-005	208-630-005	Definitions.
50-30-010	208-630-010	Application.
50-30-015	208-630-015	Examinations.
50-30-020	208-630-020	Schedule of fees.
50-30-025	208-630-025	Application for small loan endorsement to a check casher or check seller license.
50-30-030	208-630-030	Surety bond.
50-30-035	208-630-035	Alternatives to surety bond.
50-30-040	208-630-040	Access to criminal history information.
50-30-050	208-630-050	Issuance of license or small loan endorsement.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 8, amended 6, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 4, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 9, amended 10, repealed 1.

Effective Date of Rule: Thirty-one days after filing.  
 January 12, 1996  
 John L. Bley  
 Director

**NEW SECTION**

**WAC 50-30-005 Definitions.** "Act" means chapter 31.45 RCW.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling

checks, drafts, money orders, or other commercial paper serving the same purpose.

"Director" means the director of the department of financial institutions.

"Department" means the department of financial institutions.

"Financial institution" means a bank, savings bank or savings and loan association.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Licensee" means a check casher or seller licensed by the director to engage in business in accordance with chapter 31.45 RCW. For purposes of the enforcement powers, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by chapter 31.45 RCW.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Person" means a natural person, corporation, company, partnership, or association.

"Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership, company, association or corporation, and the owner of a sole proprietorship.

"RCW" means the *Revised Code of Washington*.

"Records" means books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under chapter 31.45 RCW.

"Small loan" means a loan of up to five hundred dollars for a period of thirty-one days or less.

"State" means the state of Washington.

"Substitute security" means bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the state of Washington or of a municipality, county, school district, or instrumentality of the state of Washington or guaranteed by the state.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-010 Application (~~investigation and supervision~~) deposit fee.** ~~((+)) At the time an application for a license is filed, an applicant ((at the time of filing an application for a license under this act)) shall pay to the ((supervisor a reasonable sum determined by the supervisor as)) director a deposit fee for investigating the application. The deposit fee is not refundable if ((an)) the application is denied or withdrawn. The ((investigation)) deposit fee ((shall be)) is applied to the actual cost of ((investigation of)) investigating the application ((and)). If the deposit fee is not sufficient to cover ((said)) the cost, the applicant will be assessed and responsible for any additional cost ((incurred)).~~

~~((2) The supervisor at least every eighteen months shall conduct an examination of the business and examine the books, accounts, records, and files used therein, of any licensee, of any agent, and of any person who the supervisor has reason to believe is engaging in the business of cashing or selling checks. The licensee so examined shall pay to the~~

~~supervisor the actual cost of examining and supervising each licensed place of business at the examination hourly rate prescribed. The supervisor may accept an audit report prepared by an independent certified public accountant or an examination prepared by another state in lieu of, in whole or in part, an examination performed by the supervisor.)~~

**NEW SECTION**

**WAC 50-30-015 Examinations.** (1) The director or his or her designee shall examine the business and records of any licensee or licensee's agent at least every twenty-four months. Every licensee so examined shall pay to the director the actual cost of examining and supervising each licensed place of business at the examination hourly rate established in WAC 50-30-020(2). The director may accept an audit report prepared by an independent certified public accountant or an examination prepared by another state in lieu of, in whole or in part, an examination performed by the director.

(2) The director may examine the business and records of any agent or person who the director has reason to believe is engaging in business which requires a licensee under chapter 31.45 RCW.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-020 Schedule of fees (~~for check cashers and sellers~~) paid by licensees and applicants.** (1) The ~~((supervisor))~~ director shall collect the following fees:

(a) ~~((Hourly charges))~~ A fee of ninety dollars per employee hour expended for services plus actual expenses for review of application and investigation for:

- (i) New license application.
- (ii) Additional locations.
- (iii) Change of control.
- (iv) Relocation of office.
- (v) Voluntary or involuntary liquidation of licensee.
- (vi) ~~((Other))~~ Small loan endorsement application.

(b) ~~((The hourly fee for services shall be ninety dollars per employee hour expended.))~~ The ~~((supervisor))~~ director may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in (a) of this subsection. ~~((In no event shall))~~ If the lump sum payment required under this section exceeds the actual amounts derived in (a) of this subsection, the amount in excess shall be refunded.

(2) The ~~((hourly))~~ fee for ~~((periodic))~~ examinations described in WAC 50-30-010 (2) and (3) shall be ninety dollars per employee hour expended.

**NEW SECTION**

**WAC 50-30-025 Application for small loan endorsement to a check casher or check seller license.** Each applicant for a small loan endorsement to a license must apply to the director by filing the following:

- (1) An application in the form prescribed by the director including at least the following information:
  - (a) The legal name, residence, and business address of the applicant, and if the applicant is a partnership, corpora-

PERMANENT



tion, or association, the name and address of every member, partner, officer, principal and board director;

(b) The trade name or name under which the applicant will do business under the act, the street and mailing address of each location in which the applicant will engage in business under the act;

(c) The location at which the applicant's records will be kept; and

(d) Financial statements and any other pertinent information the director may require with respect to the applicant and its board directors, officers, trustees, members, principals or employees, including information regarding any civil litigation against the applicant or any substantial investor in the applicant (a person or shareholder with an interest of ten percent or more);

(2) A surety bond and related power of attorney, or other security acceptable to the director in an amount equal to the penal sum of the required bond as set forth in WAC 50-30-030 (2)(b). In lieu of the bond, the applicant may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond in accordance with RCW 31.45.030 (5)(b) and (e) and WAC 50-30-030;

(3) A current financial statement as of the most recent quarter end prepared in accordance with generally accepted accounting principles which includes a statement of assets and liabilities and a profit and loss statement;

(4) Information on the applicant's or any affiliate's current or previous small loan or related type business in this state or any other state, including but not limited to name, address, city, state, licensing authority, and whether any enforcement action is pending or has been taken against the applicant in any state;

(5) A copy of the applicant's proposed procedures for resolving borrowers' complaints; and

(6) An application fee.

**AMENDATORY SECTION** (Amending WSR 93-16-032, filed 7/27/93, effective 8/27/93)

**WAC 50-30-030 Surety bond** ~~((for applicants engaging in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose)).~~ (1)~~((a) RCW 31.45.030 (5)(a) requires))~~ **Requirement for bond.** A licensee engaged in ~~((the))~~ business ~~((of selling checks, drafts, money orders, or other commercial paper serving the same purpose to))~~ under chapter 31.45 RCW must obtain a bond running to the state at the beginning of each calendar year and file it with the ~~((supervisor a bond running to the state of Washington, which))~~ director. The bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the ~~((supervisor. This surety bond shall))~~ director.

**(a) Conditions on bond.** The bond shall be continuous and conditioned upon the licensee faithfully abiding by chapter 31.45 RCW and all rules in this chapter. It shall also be conditioned upon the licensee paying all persons who purchase ~~((checks, drafts, or money orders))~~ monetary instruments from the licensee the face value of any ~~((check, draft, or money order which is))~~ monetary instrument dishonored by the drawee ~~((bank, savings bank, or savings~~

~~and loan association))~~ financial institution due to insufficient funds or by reason of the account having been closed. The ~~((bond))~~ surety shall only be liable for the face value of the dishonored ~~((check, draft, or money order))~~ monetary instrument, and shall not be liable for any interest or consequential damages. For a licensee with a small loan endorsement, the bond shall run to the benefit of the state and any person or persons who suffer loss due to the licensee's violation of chapter 31.45 RCW or this chapter.

**(b) Cancellation of bond.** The bond ~~((shall be continuous and))~~ may be canceled by the surety ~~((upon the surety))~~ by giving written notice to the ~~((supervisor))~~ director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the ~~((supervisor))~~ director.

**(c) Liability of surety.** Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety ~~((upon the bond))~~ shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The ~~((bond))~~ surety shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by ~~((the))~~ contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

**(d) Claiming against the bond—Jurisdiction and venue.** Any person who is a purchaser of a ~~((check, draft, or money order))~~ monetary instrument from the licensee having a claim against the licensee for the dishonor of any ~~((check, draft, or money order))~~ monetary instrument by the drawee ~~((bank, savings bank, or savings and loan association))~~ financial institution due to insufficient funds or by reason of the account having been closed, or any person who obtained a small loan from the licensee and was damaged by the licensee's violation of chapter 31.45 RCW or this chapter, may bring suit upon such bond or deposit in the superior court of the county in which the ~~((check, draft, or money order))~~ monetary instrument was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any ~~((such))~~ action must be brought not later than one year after the dishonor of the ~~((check, draft, or money order))~~ monetary instrument on which the claim is based. ~~((In the event said))~~ If the claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

~~((b))~~ **(e) Notification of claims against bond.** The licensee must notify the department of any claim against the bond within ten days after receiving notice of a claim.

**(2) Amount of bond.**

(a) Check sellers. The penal sum of the surety bond ~~((that shall be filed by each licensee))~~ for a person with a check seller license shall not be less than the amount established in the following table:

Highest Monthly Liability*	Required Bond	Plus Percentage of Excess Over
Up to \$50,000	Highest Monthly Liability	Highest Monthly Liability
\$50,001 to \$100,000	\$50,000	.5 above \$50,000
\$100,000 plus	\$75,000	.25 above \$100,000

The maximum fidelity coverage required shall be three million dollars.

\* The monthly liability is the total sum of checks for a given month. The "Highest Monthly Liability" shall be determined by multiplying the highest monthly liability of checks from the preceding calendar year (~~(multiplied)~~) by seventy-five percent.

~~((2) In lieu of such surety bond, the applicant may deposit with such banks, savings banks, savings and loan associations, or trust companies in this state as such applicant may designate and the supervisor may approve, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the state of Washington or of a municipality, county, school district, or instrumentality of the state of Washington or guaranteed by the state to an aggregate amount, based on principal amount or market value, whichever is lower, of not less than the amount of the required fidelity bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the fidelity bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the supervisor, to substitute other qualified securities for those deposited, and shall be required so to do on written order of the supervisor made for good cause shown.~~

~~(3) In lieu of such surety bond, the applicant may deposit with the supervisor an irrevocable letter of credit drawn in favor of the supervisor for an amount equal to or greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, or savings and loan association in this state as such applicant may designate and the supervisor may approve.)~~

(b) Small loan endorsement. The required penal sum of the bond for a small loan endorsement shall be calculated according to the following table. This amount is in addition to the bond amount required for holders of a license to do business as a check seller. The licensee may combine the penal sums of the bonding requirements and file one bond.

<u>Number of Branch Offices</u>	<u>Penal Sum of the Bond</u>
<u>1</u>	<u>\$10,000</u>
<u>2</u>	<u>\$11,000</u>

Plus an additional one thousand dollars for each licensed branch office beyond two branches.

**NEW SECTION**

**WAC 50-30-035 Alternatives to the surety bond.** (1) **Type of alternative allowed.** In lieu of the surety bond required in WAC 50-30-030, an applicant or licensee may substitute one of the following alternatives with the approval of the director. Any alternative to the surety bond shall

secure the same obligations as would the surety bond. The amount of alternative substituted under (a), (b) and (c) of this subsection must be equal to or greater than the amount of the required surety bond.

(a) **Securities.** Substitute security assigned to the director. The value of the substitute security shall be based on the principal amount or market value, whichever is lower. The applicant or licensee must deposit the substitute security with a financial institution in this state approved by the director. The depositor is entitled to receive all interest and dividends on the substitute security, has the right, with the approval of the director, to substitute other qualified securities for those deposited, and shall be required to do so on written order of the director made for good cause shown.

(b) **Irrevocable letter of credit.** An irrevocable letter of credit issued in favor of the director. The irrevocable letter of credit must be issued by a financial institution in the state approved by the director and deposited with the director. An irrevocable letter of credit may only be substituted if it provides the same protection to consumers as would a surety bond.

(c) **Time deposit.** An assignment in favor of the director of a certificate of deposit. The certificate of deposit must be issued by a financial institution in the state. The depositor is entitled to receive all interest and dividends on the certificate of deposit.

(d) **Demonstration of net worth.** A licensee or applicant for a small loan endorsement may demonstrate net worth in excess of three times the amount of the required bond. The licensee shall notify the director within ten business days of any date upon which its net worth decreases below the required amount. A licensee that fails to maintain the required level of net worth and continues to operate under a small loan endorsement will be required to maintain a surety bond for five years after the date of noncompliance. During this five-year period, the director will not accept a demonstration of net worth in lieu of a surety bond.

(i) **Reports required.** A licensee that maintains net worth in lieu of a surety bond shall submit to the director within forty-five days after the close of each quarter year-to-date financial statements prepared in accordance with generally accepted accounting principles. The financial statements must include at a minimum a statement of assets and liabilities and a profit and loss statement. The director may continue to require other documents, agreements or information necessary to properly evaluate and ensure that the licensee remains in compliance with this section.

(ii) **Bad debts and judgments.** A licensee that maintains net worth in lieu of a surety bond may not consider bad debts and certain judgments as assets. The director may approve exceptions in writing. The licensee must charge off its books any debt upon which any payment is six months or more past due. The licensee may not count as an asset any judgment more than two years old which has not been paid. Time consumed by an appeal from a judgment is not counted in the two-year limit.

(2) **Noncompliance.** A licensee that does not comply with this section must obtain and file with the director a surety bond in the required amount in WAC 50-30-030 by the date specified by the director.

PERMANENT

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-040 Access to criminal history information.** (1) The ~~((supervisor))~~ director may review any criminal history record information ~~((relating to an applicant that is))~~ maintained by any federal, state, or local law enforcement agency ~~((ef))~~ relating to:

(a) An applicant for a license under ~~((this article))~~ chapter 31.45 RCW; or

(b) A principal of an applicant for a license under ~~((this article))~~ chapter 31.45 RCW.

(2) The ~~((supervisor))~~ director may ~~((refuse to grant a license or may))~~ deny, suspend or revoke a license if the applicant, licensee, or principal of the applicant or licensee~~((s))~~ fails to provide a complete set of fingerprints and a recent photograph on request.

(3) All criminal history record information received by the ~~((supervisor))~~ director is confidential information and is for exclusive use of the ~~((supervisor))~~ director and the division of ~~((banking))~~ consumer services. Except on court order or as provided by subsection (4) of this section, or otherwise restricted by law, the information may not be released or otherwise disclosed to any other person or agency.

(4) The ~~((supervisor))~~ director may not provide a person being investigated under this section with a copy of the person's criminal history record obtained pursuant to subsection (1) of this section. This subsection does not prevent the ~~((supervisor))~~ director from disclosing to the person the dates and places of arrests, offenses, and dispositions contained in the criminal history records.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-050 Issuance of license or small loan endorsement.** If the ~~((supervisor))~~ director determines that all licensing criteria of ((section 4, chapter 355, Laws of 1991 has)) chapter 31.45 RCW have been met and the appropriate fees paid, the ~~((supervisor))~~ director shall issue a nontransferable license for the applicant to engage in the business of cashing and/or selling checks or a small loan endorsement to a license. The license shall remain in effect for a period of five years from the date of its issuance unless earlier surrendered, suspended, or revoked. The small loan endorsement will expire at the same time as the license unless earlier surrendered, suspended or revoked.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-060 Disclosure of significant developments.** A licensee shall ~~((be required to))~~ notify the ~~((supervisor))~~ director in writing within thirty days of the occurrence of any of the following significant developments:

(1) Licensee filing for bankruptcy or reorganization.

(2) Notification of the institution of license revocation procedures in any state against the licensee.

(3) The filing of a criminal indictment any way related to check cashing and/or selling activities of licensee, key officer, board director, or principal, including, but not limited

to, the handling and/or reporting of moneys received and/or instruments sold.

(4) A licensee, key officer, board director, or principal being convicted of a crime.

(5) A change of control. In the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the board directors or otherwise effect a change in policy of the corporation. The ~~((supervisor))~~ director may require such information as deemed necessary to determine whether a new application is required. In the case of entities other than corporations, change in control shall mean any change in principals of the organization either active or passive. Change of control investigation fees shall be billed to the persons or group at the rate billed for applications.

#### NEW SECTION

**WAC 50-30-065 The note.** Each small loan made under a small loan endorsement pursuant to chapter 31.45 RCW shall be evidenced by a written note which shall state at least the following:

(1) The date of the loan;

(2) The principal amount of the loan which is defined as the face amount of the debt instrument on which interest is owed;

(3) The manner in which it is to be repaid;

(4) The maturity date of the debt; and

(5) The rate of interest and the method of calculating interest.

#### NEW SECTION

**WAC 50-30-068 Contents of disclosure statement to borrower.** (1) The licensee shall deliver to the borrower at the time a small loan is made a statement which meets the requirements of all applicable laws, including the federal Truth in Lending Act.

(2) Sufficient information must be maintained in the licensee's files to show compliance with the consumer disclosure requirements of state and federal law.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-070 Accounting and financial records ~~((to be maintained by the licensee))~~.** ~~((Cashers of checks and/or sellers of checks, drafts, money orders, or other commercial paper serving the same purpose shall be required to))~~ Licensees shall maintain as a minimum the following ~~((books and))~~ records for at least two years.

(1) A daily record of checks cashed shall be maintained as a record of all check cashing transactions occurring each day. Such daily record shall be limited to the following provided a sufficient audit trail is available through records obtainable from the licensee's bank of account.

(a) Amount of the check cashed;

(b) Amount of fee charged for cashing the check;

(c) Amount of cash deducted from the transaction for the sales of other services or products.

(2) A daily cash reconciliation shall be maintained summarizing each day's activity and reconciling cash on

hand at the opening of business to cash on hand at the close of business. Such reconciliation shall separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, and bank cash deposits.

(3) Records required under subsections (1) and (2) of this section may be maintained in combined form, hand or machine posted, or automated.

(4) A general ledger containing records of all assets, liabilities, capital, income, and expenses shall be maintained. The general ledger shall be posted from the daily record of checks cashed or other record of original entry, at least monthly, and shall be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices. A consolidated general ledger reflecting activity at two or more locations by the same licensee may be maintained provided books of original entry are separately maintained for each location.

(5) ~~((All checks, drafts, and money orders drawn on a financial institution domiciled in the United States and cashed by a licensee shall be sent for deposit to the licensee's account at a depository financial institution located in Washington state or sent for collection not later than close of business on the third business day after the day on which the check was accepted for cash.~~

~~(6))~~ Every licensee shall maintain current personnel files for its employees.

(6) For licensees with small loan endorsements, each loan file shall contain at least a copy of the note and a copy of any disclosure statement.

#### NEW SECTION

**WAC 50-30-075 Monetary instruments—Deposit requirements.** (1) **Check cashers.** All monetary instruments drawn on a financial institution domiciled in the United States and cashed by a licensee shall be sent for deposit to the licensee's account at a depository financial institution located in Washington state or sent for collection not later than close of business on the third business day after the day on which the monetary instrument was accepted for cash. If the monetary instrument was accepted as part of a small loan transaction under chapter 31.45 RCW, this subsection does not apply.

(2) **Licensees with small loan endorsements.** A licensee with a small loan endorsement may not deposit a monetary instrument accepted in the course of making a small loan under the act prior to the date on the monetary instrument, unless otherwise agreed to in writing by the borrower.

AMENDATORY SECTION (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-080 Licensees are required to comply with federal and state laws including but not limited to the following.** (1) Each licensee shall comply with section 103.29 of the Code of Federal Regulations and maintain detailed records to satisfy currency transaction reporting requirements of the United States Treasury Department.

(2) Each licensee must comply with chapter 63.29 RCW, the Uniform Unclaimed Property Act.

(3) Each licensee with a small loan endorsement must comply with the federal Truth in Lending Act.

#### NEW SECTION

**WAC 50-30-085 Licensee with small loan endorsement—Powers—Restrictions.** (1) A licensee with a small loan endorsement may:

(a) Agree with the borrower for the payment of fees for a credit report received from a recognized credit reporting company when such fees are actually paid by the licensee to an unaffiliated third party for such services or purposes;

(b) Charge or collect a fee equal to or less than twenty-five dollars for a check returned unpaid by the bank drawn upon. Only one fee may be collected with respect to a particular check even if it has been redeposited and returned more than once.

(2) A licensee with a small loan endorsement is subject to the following restrictions:

(a) No loan made under this act shall be repaid by proceeds of another loan made under chapter 31.45 RCW by the same lender or affiliate. The proceeds from any loan made under this act shall not be applied to any other loan from the same lender or affiliate;

(b) A licensee shall not make any loan under authority granted by chapter 31.45 RCW under any name or at any place of business other than that named on the license and small loan endorsement;

(c) A licensee may not hold a check or checks in an aggregate face amount of more than five hundred dollars plus allowable fees from any one borrower at any one time;

(d) A licensee may not hold a check for more than thirty-one days unless requested to do so by the borrower. The licensee may not charge additional fees for holding the check; and

(e) A licensee may not charge an additional fee to cash a monetary instrument issued as part of a small loan made under chapter 31.45 RCW.

AMENDATORY SECTION (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-090 Audit report by licensee—Financial statements.** (1) Each licensee shall submit annually a financial statement on a form prescribed by the ~~((supervisor))~~ director. Financial statements may be prepared by outside accountants or by the licensee's own accountants. ~~((Said))~~ The statements are due ((one hundred five days after the calendar year end)) by April 15, or if the licensee has established a fiscal year, ~~((then))~~ one hundred five days after the fiscal year end.

(2) A licensee engaged in the business of selling ~~((checks, drafts, money orders, or other commercial paper serving the same purpose))~~ monetary instruments, whose license has been surrendered or revoked shall submit to the ~~((supervisor))~~ director, at its own expense, on or before one hundred five days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date ~~((for))~~. This closing audit report shall cover the twelve months ending with such effective date or for such other period as the ((supervisor)) director may specify. If the report, certificate, or opinion of the independent accountant is in any way

qualified, the ~~((supervisor))~~ director may require the licensee to take such action as appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion. Such report shall include relevant information specified by the ~~((supervisor))~~ director.

(3) The reports and financial statements referred to in subsections (1) and (2) of this section shall include at least a balance sheet and a statement of income together with such other relevant information as the ~~((supervisor))~~ director may require, ~~((and shall be))~~ prepared in accordance with general accepted accounting principles ~~((and))~~. The reports and financial statements referred to in subsection (2) of this section shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. The audits shall be conducted in accordance with generally accepted auditing standards.

(4) For good cause and upon written request, the ~~((supervisor))~~ director may extend the time for compliance with this section.

(5) A licensee shall, when requested by the ~~((supervisor))~~ director, for good cause, submit its unaudited financial statement, prepared in accordance with generally accepted accounting principles and consisting of at least a balance sheet and statement of income as of the date and for the period specified by the ~~((supervisor))~~ director.

(6) The ~~((supervisor))~~ director may reject any financial statement, report, certificate, or opinion filed pursuant to this section by notifying the licensee or other person required to make such filing of its rejection and the cause thereof. Within thirty days after the receipt of such notice, the licensee or other person shall correct such deficiency. The ~~((supervisor))~~ director shall retain a copy of all filings so rejected.

#### NEW SECTION

**WAC 50-30-095 Knowledge of the law and regulations.** Each licensee shall ensure that any employee or person who engages in business on behalf of the licensee under authority granted by chapter 31.45 RCW shall have a sufficient understanding of the statutes and rules applicable to its business to assure compliance with such statutes and rules.

**AMENDATORY SECTION** (Amending WSR 92-02-105, filed 1/2/92, effective 2/2/92)

**WAC 50-30-100 Trust accounts—Limitations and prohibitions.** (1) ~~((The))~~ At least monthly a licensee in the business of selling checks shall ~~((periodically at least monthly))~~ withdraw from the trust account an amount equal to fees earned for the corresponding period from the sale of ~~((checks, drafts, money orders, or other commercial paper serving the same purpose))~~ monetary instruments. The remaining balance of the trust account must be sufficient to cover all ~~((checks, drafts, money orders, and other commercial paper serving the same purpose))~~ monetary instruments that remain outstanding and drawn against the trust account.

(2) A licensee is prohibited from allowing the bank of account to charge back checks or drafts deposited to the trust account and subsequently dishonored against said trust account.

(3) Withdrawals from the trust account by a licensee, whose license has been suspended, terminated, or not renewed, will not be allowed, without the ~~((supervisor's))~~ director's consent, until a closing audit report has been received according to WAC 50-30-090(2).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 50-30-110 Transitional rule.

**WSR 96-03-070**  
**PERMANENT RULES**  
**OFFICE OF MARINE SAFETY**  
[Filed January 17, 1996, 10:39 a.m.]

Date of Adoption: January 17, 1996.

Purpose: To correct typographical errors and clarify language concerning pilot coordination, navigation procedures, drug and alcohol use.

Citation of Existing Rules Affected by this Order: Amending sections of chapter 317-21 WAC, Oil spill prevention plans: WAC 317-21-020 Application, 317-21-030 Duties, 317-21-120 Submittal agreement, 317-21-200 Operating procedures—Watch practices, 317-21-205 Operating procedures—Navigation, 317-21-215 Operating procedures—Prearrival tests and inspections, 317-21-235 Personnel policies—Illicit drug and alcohol use, 317-21-245 Personnel policies—Work hours, 317-21-320 Personnel policies—Training, 317-21-345 Technology, 317-21-500 Administrative actions, 317-21-530 Plan updates, and 317-21-540 Advance notice of entry and safety reports.

Statutory Authority for Adoption: RCW 88.46.040.

Adopted under notice filed as WSR 95-21-045 on October 11, 1995.

Changes Other than Editing from Proposed to Adopted Version: Under WAC 317-21-235 (3)(b), the language is amended to more closely match the standard for post-incident testing used by the United States Coast Guard. The language now requires post-incident drug and alcohol testing of all crew members who may have been directly involved in the incident.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 6, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 7, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 13, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

PERMANENT

January 17, 1996  
Barbara Herman  
Director

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-020 Application.** (1) A tank vessel may not operate in state waters unless the vessel's owner or operator complies with the provisions of this chapter and any administrative action or order issued by the office in administering this chapter.

(2) A tank vessel entering state waters based on a U.S. Coast Guard determination that the vessel is in distress is exempt from the requirements of this chapter.

(3) An oil spill prevention plan for a tanker must meet the standards in Part 3 of this chapter.

(4) An oil spill prevention plan for a tank barge must meet the standards in Part 4 of this chapter.

(5) An oil spill prevention plan for a tank barge must demonstrate that any tow vessel used to transport the barge complies with applicable standards in Part 4 of this chapter.

(6) The provisions of an ((approved)) oil spill prevention plan ((binds the owner, operator, or charterer by demise (bareboat charterer) of a tank vessel covered by the plan, and)) approved by the office are legally binding on the tank vessel owner or operator for whom it was submitted and the owner's or operator's successors, assigns, agents, and employees.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-030 Duties.** An owner or operator of a tank vessel shall:

(1) ~~((Keep an approved))~~ Maintain a submitted oil spill prevention plan ~~((current))~~ to accurately represent the owner's or operator's policies, procedures, and practices;

(2) Update the approved plan annually;

(3) Make the vessel available during its scheduled stay in port for inspection by the office;

(4) Ensure that all charts, position recordings, and other records developed during the vessel's transit through or while at anchor in state waters, including voyage plans and position fixes, are not destroyed until the vessel departs its berth, anchorage, or moorage; and

(5) Supply information or documents requested by the office to complete, clarify, or confirm information presented in the plan.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-120 Submittal agreement.** An oil spill prevention plan must include a submittal agreement that includes the following information.

(1) Information identifying the person submitting the plan including:

(a) The owner or operator by name, principle place of business, mailing address, and telephone number;

(b) The name, call sign, and Lloyd's number (official number for tank barges) of vessels covered by the plan; and

(c) The name, address, and telephone number of a person designated by the owner or operator to be contacted for matters concerning the plan.

(2) A statement, signed by the owner or operator, verifying that the submitted plan describes policies, procedures, and practices of the owner or operator employed on vessels covered by the plan and commits the owner or operator, the owner's or operator's successors, assigns, agents, and employees to complying with the policies, procedures, and practices described in the plan.

(3) For a tanker, an operational summary that describes:

(a) Routes normally transited including usual ports of call;

(b) Frequency and duration of typical port calls in state waters;

(c) The owner's or operator's management organization and identification by name, mailing address, and phone number of any ship, technical, or crewing management company providing service for a vessel covered by the plan;

(d) The total vessel manning complement required for compliance with company policy, collective bargaining agreements, insurance and underwriters, or other agreement; and

(e) The rating and assigned duties of any licensed or documented seamen who are brought aboard to temporarily relieve or supplement the vessel's manning complement, if any, while the vessel is in port.

(4) For a tank barge, a typical tow vessel that contains the information required under subsection (3) of this section.

(5) For a tanker or tank barge that operates entirely in state waters, a written schedule of the vessel's typical operations in state waters. The written schedule must identify the:

(a) Vessel's maximum bunker and cargo capacity in barrels (petroleum), average quantity of bunker and cargo carried, and usual place and schedule for oil transfer and bunkering operations;

(b) Typical routes served by the vessel;

(c) Typical schedule of the vessel;

(d) Expected pilotage, tug escort, lightering, or other assistance beyond that required by federal or state law; and

(e) Contingency plan covering the vessel under Washington law.

(6) A written schedule submitted under WAC ~~((317-040-050))~~ 317-40-050(2) meets the requirement under subsection (5) of this section.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-200 Operating procedures—Watch practices.** An oil spill prevention plan for a tanker must describe watch practices, policies, and procedures that meet the following standards.

(1) *Navigation watch.* The navigation watch shall consist of at least two licensed deck officers, a helmsman, and a lookout. One of the licensed deck officers may be a state-licensed pilot when the tanker is in pilotage waters. The helmsman may not serve as a lookout.

(a) When the tanker is operating in restricted visibility, the navigation watch shall include at least three licensed

deck officers, one of whom may be a state-licensed pilot when the tanker is in pilotage waters. The vessel master or officer in charge shall determine periods of restricted visibility and record in the deck log the time restricted visibility begins and ends.

(b) Lookouts must be posted in a safe location that allows sight and hearing of all navigational hazards and other vessels.

(c) There must be rapid and reliable communication between the lookout and the officer in charge on the bridge.

(d) The name of a navigation watch member must be logged in the deck log when the member assumes watch-standing duties.

(2) *Bridge resource management.* The navigation watch shall employ a bridge resource management system that organizes the navigation watch into a bridge team and coordinates the use of bridge equipment for vessel navigation, collision avoidance, and bridge administration. The bridge resource management system must be standard practice throughout the owner's or operator's fleet. The system must include, but is not limited to:

(a) Defined bridge team assignments and duties for open sea transits, coastal and restricted waterway navigation, and conditions of restricted visibility;

(b) Procedures for navigating with a pilot;

(c) Defined responsibilities, stations, and communication guidelines for each bridge team member in response to emergencies, including pollution incidents;

(d) Clearly articulated goals, objectives, and priorities for each bridge team member;

(e) Clear delegation of duties, responsibilities, and authority between bridge team members;

(f) Guidelines for understandable and situation-specific communication between bridge team members and between the bridge team and pilot for open sea transits, coastal, and restricted waterway navigation, and conditions of restricted visibility;

(g) Comprehensive passage and voyage planning; and

(h) Defined responsibilities, stations, and communication guidelines for each bridge team member for maneuvering to enter or leave designated and customary shipping lanes, anchorage, and moorage.

(3) *Coordination with pilots.* The bridge resource management system must include a procedure to coordinate interaction of the bridge team and pilot at a time and in a manner that does not interfere with the performance of the pilot's duties.

(a) The master shall identify for the pilot those members of the bridge team who are not proficient in English and explain the responsibilities of each licensed deck officer on watch.

(b) To facilitate this coordination, vessel masters shall use a checklist that includes, at a minimum, the following:

~~((a))~~ (i) Information requested by the pilot under WAC 296-116-205 concerning vessel maneuvering characteristics, condition of navigation and communication equipment, capabilities and problems with the propulsion and steering system, and other vessel specifications;

~~((b) The responsibilities of each bridge team member under the vessel's bridge resource management system;~~

~~(c) Identification of members of the bridge team with English proficiency; and~~

~~(d) A passage plan for restricted waterways including:~~  
~~(i) Intended routes and waterways transited and appropriate vessel speed for each waterway;~~  
~~(ii) Waterway characteristics including depths, type of bottom, currents, tides, and anchorage areas;~~  
~~(iii) Ship to shore communication procedures;~~  
~~(iv) Escort vessel and assist tug requirements and communications;~~  
~~(v) Mooring arrangements;~~  
~~(vi) Expected weather and traffic; and~~  
~~(vii) Local traffic management rules and requirements.)~~

(i) Navigational procedures and considerations, including destination, intended route, planned speed, vessel traffic services, and tug escort requirements; and

(ii) Local conditions including expected weather, tide, current, sea conditions, and vessel traffic.

(c) If conditions permit, the pilot coordination checklist may be covered during the prescort conference required under 33 CFR Part 168 for single-hull tankers over five thousand gross tons.

(4) *Security rounds.* The master shall designate spaces on the vessel subject to security rounds to identify and to correct, if feasible, safety hazards such as potential fire hazards, defective machinery, hull and bulkhead integrity, malfunctioning safety equipment, potential sources of pollution, and potentially dangerous crew activities.

(a) Security rounds must be conducted when the vessel is underway, anchored, or moored.

(b) The master shall designate security rounds on as much of the vessel as the master deems safe for the crew member making the round.

(c) Crew members making security rounds shall be provided appropriate training and checklists, and instructed to first notify the deck watch officer before attempting corrective action.

(d) Security rounds must be made at least every two hours. On tankers equipped with functioning automated fire and flooding detection systems, security rounds must be made at least every four hours.

(e) The vessel's deck watch officer shall log the completion of each security round in the deck log.

(5) *Anchor watch.* A licensed deck officer shall maintain a watch from the bridge while the tanker is anchored. The officer shall continuously monitor the position of the vessel at anchor and plot its position at least once each hour.

(6) *Engineering watch.* Licensed engineers shall be in the engineering control room and in the immediate vicinity of the machinery space's emergency throttle controls if:

(a) The tanker's engineering control room is not within the machinery spaces; and

(b) The vessel is maneuvering to embark or disembark a pilot, docking or departing berth, or anchoring or departing anchorage.

AMENDATORY SECTION (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-205 Operating procedures—Navigation.** An oil spill prevention plan for a tanker must describe navigation practices, policies and procedures that meet the following standards.

PERMANENT

(1) *Fix intervals.* The position of tankers while underway in state waters must be constantly monitored using all appropriate navigational aids to determine set and drift. Positions must be recorded at fifteen minute intervals or less, and may be recorded manually or electronically.

(2) *Voyage planning.* Prior to operating in state waters, the vessel master shall ensure that a comprehensive written voyage plan is developed for the tanker's trip through state waters. The voyage plan is a navigation guide used by the bridge team for transits through state waters ~~((, but subject to deviations by the master based on local conditions or recommendations from the vessel's state-licensed pilot))~~. The plan should not be adhered to without deviation. The advice of the vessel's state-licensed pilot and varying local conditions must be taken into consideration. A standard voyage plan for consecutive voyages along the same routes may be used if updated prior to the tanker's entry into state waters. The voyage plan must address, at a minimum, the following:

(a) A review of available charts and navigational publications to determine waterway characteristics such as channel depth and width, turning areas, navigational obstructions, and appropriate speeds for each waterway transited;

(b) A review of notices to mariners and other navigational publications to determine the accuracy and dependability, and operating status, of available navigational aids, including radio-navigational aids;

(c) A review of available charts, navigational publications, and geographic oil spill response plans to determine environmentally sensitive areas designated and provided by the northwest area committee established under 33 U.S.C. sec. 1321(j), traffic separation systems, areas-to-be-avoided, landfalls, routes expected to be transited at night, and other areas where caution should be exercised;

(d) Predicted weather, currents and tides;

(e) Expected vessel traffic;

(f) Procedures, expected communications, and times for complying with the requirements for vessel traffic services, pilotage, tug escorts, and tug assists;

(g) Emergency procedures to be used while transiting state waters for vessel casualties, pollution incidents, and personnel health and safety;

(h) Berthing and anchoring arrangements, including water depth at intended mooring or anchorage;

(i) Engineering considerations, including pre-arrival tests and inspections as required under WAC 317-21-215, planned maintenance, fuel tanks used and expected fuel consumption, stability, trim and drafts, and required ballast; and

(j) Review of the information in, and accuracy of, available charts, notices to mariners, and other navigational publications.

(3) *Compass checks.* While underway in state waters, the vessel master shall establish a schedule for frequent comparisons of the steering gyrocompass with the magnetic compass;

(4) *Port Angeles.* A master of a tanker carrying cargo shall use at least one assist tug for anchoring and departing anchorages in the port of Port Angeles. The port of Port Angeles includes all navigable waters west of 123 degrees, 24 minutes west longitude encompassed by Ediz Hook.

(5) *Tug escorts.* Reserved.

(6) *Rescue tug.* Reserved.

AMENDATORY SECTION (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-210 Operating procedures—Engineering.** An oil spill prevention plan for a tanker must describe engineering practices, policies, and procedures that meet the following standards.

(1) Tankers without automatic stand-by switching gear for stand-by generators must operate with ~~((the))~~ a stand-by generator running and immediately available to assume the electrical load while underway in state waters.

(2) The steering gear flat must be inspected hourly while operating in state waters, unless monitored by closed circuit television or other acceptable monitoring system.

(3) If applicable, scoop injection cooling water systems must be secured at least six hours before operating in state waters.

(4) If applicable, the main engines must be operating to capacity on fuel used for maneuvering before operating in state waters.

AMENDATORY SECTION (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-215 Operating procedures—Prearrival tests and inspections.** An oil spill prevention plan for a tanker must describe policies, procedures, and practices that require the following prearrival tests ~~((and))~~ or inspections, as appropriate for the system, to be conducted and logged in the deck or engineering log twelve hours or less before entering or getting underway in state waters.

(1) Navigation equipment, including compasses, radars, direction finders, and speed monitoring devices, must be inspected. Compass, range, and bearing errors must be logged in the deck log and posted on the bridge to be used by the bridge team.

(2) Emergency and stand-by ship service generators must be started and the switch gear proven to be working.

(3) All steering systems and local controls of the steering gear at the steering gear flat must be inspected or tested, and the steering gear flat inspected for unusual conditions such as leaks, fractures, and loose connections.

(4) The main engine, or engines, must be tested ahead and astern, or through the full range of pitch of controllable pitch propellers, if the tanker is so equipped.

(5) Main lubrication oil pumps must be inspected or tested and ready for immediate use.

(6) Main heavy oil pumps must be inspected or tested and ready for immediate use.

(7) For main engine lubrication and fuel oil systems with fitted duplex strainers, stand-by strainers must be cleaned, purged, and made immediately available.

(8) Fuel sufficient to operate the main engine or engines on the transit to berth or anchorage must be transferred to the main engine settler or service tanks, or both.

(9) For motor-driven tankers:

(a) Main and stand-by cooling water system circulating pumps must be inspected or tested and ready for immediate use;

(b) Intake or charge air auxiliary electric blowers, if applicable, must be inspected or tested and ready for immediate use;



- (c) Starting and control air tanks must be filled and ready for use;
- (d) Main and stand-by air compressors must be inspected or tested and ready for immediate use; and
- (e) The starting air piping system must be aligned and drained of condensate.
- (10) For steam-driven tankers:
- (a) Spare boiler burners must be prepared and ready for immediate use;
- (b) Forced draft fans must be inspected or tested and ready for immediate use; and
- (c) Main and stand-by feed water pumps must be inspected or tested and ready for immediate use.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-235 Personnel policies—Illicit drug and alcohol use.** (1) An owner or operator of a tanker shall have policies, procedures, and practices for alcohol and drug testing that comply with 33 CFR Part 95 and 46 CFR Parts 4 and 16, except 46 CFR sec. 16.500. The owner's and operator's policies, procedures, and practices shall ensure that:

- (a) A person neither consumes, nor is under the influence of, alcohol on a tanker while in state waters unless that person is a passenger who does not perform, and will not perform, any duty on the tanker in state waters; and
- (b) A person neither consumes, nor is under the influence of, illicit drugs on a tanker while in state waters.
- (2) State-licensed pilots are subject to the alcohol and illicit drug chemical testing policies established by the state board of pilotage commissioners and are not required to comply with the testing program developed to meet the standards described in this section.
- (3) The testing program must include tests for alcohol and drug use that meet the following objectives:
- (a) A person is not employed who is likely to consume illicit drugs or consume alcohol while on a tanker in state waters;
- (b) Chemical tests for evidence of alcohol or drug use, or both, are taken from all ~~((bridge and engineering personnel))~~ crew members who may have been directly involved as soon as practicable after an allision, collision, grounding, ship board fire, flood, or discharge of oil or hazardous material~~((, as those terms are defined in WAC 317-21-130(3)))~~; and
- (c) A person on a tanker is tested for illicit drug or alcohol use, or both, when there is reasonable cause to believe the person is under the influence of alcohol or illicit drugs; and
- (d) All personnel are randomly chemically tested for being under the influence of illicit drugs or alcohol.
- ~~((3))~~ (4) The owner or operator shall describe measures employed to ensure quality control of all ~~((testing performed))~~ test samples taken and the accuracy of test results.

~~((4))~~ (5) The owner or operator shall submit a report with annual plan updates required under WAC 317-21-530. The report must describe testing activity and results for the past calendar year. The report must include:

- (a) The total number of personnel covered by the owner or operator's plan during the past year;
- (b) The total number of personnel tested for illicit drugs in the past year;
- (c) The total number of personnel tested for alcohol in the past year; and
- (d) A numerical summary of the testing performed and positive test results by ratings and assigned vessel.

~~((5))~~ (6) The owner or operator shall report to the office the name, rating and assigned vessel of any navigation or engineering watchstander who ~~((tested))~~ remains employed by the owner or operator as a watchstander after testing positive more than once during the previous twelve months of employment for illicit drugs or use of alcohol on a tanker ~~((while employed by the owner or operator))~~. The report shall be made within seventy-two hours of confirmation of the positive test result.

~~((6))~~ (7) For the purposes of this section, the following definitions apply.

(a) "Chemical test" means an analysis of a person's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of illicit drug or alcohol use performed in a scientifically recognized manner.

(b) "Illicit drug" means a narcotic drug, ~~((marijuana, and any substance listed as a))~~ controlled substance or a controlled substance analog as defined under 21 U.S.C. sec. 802 that the U.S. Coast Guard has approved for testing under 49 CFR Part 40, and for which the U.S. Department of Health and Human Services has established an approved testing protocol and positive threshold.

(c) "Positive test results" means a chemical test that identifies any amount of alcohol or levels of illicit drugs meeting or exceeding initial cut off levels described in 49 CFR sec. 40.29(e) found as a result of chemically testing a person's breath, blood, urine, saliva, bodily fluids, or tissues.

(d) "Random chemically tested" means that each crew member of a vessel covered by a prevention plan has a substantially equal chance of selection on a statistically valid basis throughout the crew member's employment, as long as ~~((fifty percent of all))~~ the number of vessel personnel ~~((are))~~ tested annually equals the U.S. Coast Guard's annual rate for random drug testing under 46 CFR sec. 16.230. Random testing may not include pre-employment, post-accident, reasonable cause tests, or tests required to maintain a mariner's license or documentation. Random testing also may not include tests required by a marine facility.

(e) "Reasonable cause" means a reasonable belief that a person has used an illicit drug or alcohol based on either direct observation of actual use or of specific, contemporaneous physical, behavioral, or performance indicators of probable use.

(f) "Under the influence" means either the effects of consuming alcohol or illicit drugs is apparent by observation of the person's manner, disposition, speech, muscular movement, general appearance or behavior, or the person has a positive test result. A person is presumed to be under the influence if observed to consume any alcohol or drugs other than recommended dosages of prescribed or nonprescribed medications.

~~((7))~~ (8) If one percent or less of the personnel covered by an owner's or operator's plan have positive test results for two consecutive calendar years, the owner or

operator may reduce the level of random testing to twenty-five percent of covered personnel. Positive test results from post-accident, reasonable cause, and random testing are included in the calculation of the one percent. If more than one percent of the covered personnel have positive test results for two consecutive years, the office may require:

- (a) Preboarding alcohol testing for all personnel;
- (b) Unannounced, random alcohol testing of personnel while the vessel is in state waters; or
- (c) Both.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-245 Personnel policies—Work hours.**

(1) A member of a tanker's crew may not work more than fifteen hours in twenty-four hours, nor more than thirty-six hours in seventy-two hours except in an emergency. Time spent performing administrative duties is considered time worked. Time spent participating in ship board drills is not considered time worked if participation is required by the master, company policy, or law or regulation.

(2) An emergency is an unforeseen situation that poses an imminent threat to human safety or the environment, or substantial loss of property.

(3) A licensed deck officer may not assume duties on a navigation watch when first departing a berth in state waters unless he or she was off duty for at least six hours of the twelve hours prior to departure.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-265 Technology.** (1) *Navigation equipment.* An oil spill prevention plan for a tank vessel must describe navigation equipment used on a vessel covered by the plan which includes:

- (a) Global positioning system (GPS) receivers; and
- (b) Two separate radar systems, one of which is equipped with an automated radar plotting aid (ARPA).

(2) *Emergency towing system.* Tankers must be equipped with an emergency towing system on both the bow and stern within two years from the effective date of this chapter (~~that~~

~~(a))~~). The emergency towing system comprises:

~~((+))~~ (a) Designated strong points able to withstand the load to which they may be subjected during a towing operation in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet);

~~((+))~~ (b) Appropriate chafing chains, towing pennant, tow line and connections of a size and strength to tow the tanker fully laden in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet); and

~~((+))~~ (c) Appropriately sized and colored marker buoys attached to the towing pennants(~~and~~).

~~((b) Is))~~ (3) The emergency towing system must be deployable:

- (i) In 15 minutes or less by at most two crew members;
- (ii) From the bridge or other safe location when the release points are inaccessible; and
- (iii) Without use of the vessel's electrical power.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-320 Personnel policies—Training.** An oil spill prevention plan for a tank barge must describe a comprehensive training program for the tow vessel crew and tank barge personnel that meets the standards described in WAC 317-21-230 (1), (2), (3)(~~3~~) (c)(iv) and (v), and (4). Tank barge personnel shall also be trained in cargo handling. The following drills must also be conducted:

(1) For coastal towing, drills are conducted at least once per voyage for shipboard fire fighting and man overboard. In addition, lost barge retrieval procedures and oil spill response procedures must be reviewed at least once per voyage.

(2) For inland waterway towing:

- (a) A shipboard fire fighting drill is conducted weekly;
- (b) A lost barge retrieval drill is conducted monthly; and
- (c) Oil spill response and man overboard drills are conducted quarterly.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-345 Technology.** (1) *Navigation equipment.* An owner or operator of a tank barge shall ensure that tow vessels transporting tank barges are equipped with a functional radar. Tow vessels transporting tank barges in coastal waters shall be equipped with global positioning system (GPS) receivers.

(2) *Towing equipment.* An owner or operator of a tank barge shall employ towing equipment that complies with the following standards:

(a) **Tow vessels.** Tow vessels that transport tank barges in coastal waters must have twin screws and a minimum bollard pull of four pounds per deadweight ton of the tank barge.

(b) **Coastal tow wire.** The tow wire for coastal hawser towing must have:

- (i) A diameter of at least one and one-quarter inch;
- (ii) A nominal breaking strength of two and a half times the bollard pull of the tow vessel;
- (iii) An independent wire rope core;
- (iv) Improved plow steel or extra improved plow steel wire;

(v) Been heavily lubricated or galvanized at the time of manufacture;

(vi) A right or left regular lay and is six by nineteen construction or larger; and

(vii) A tow line that terminates in either:

(A) A spelter or thermo-set resin poured socket sized to exceed the breaking strength of the tow wire; or

(B) A spliced eye with a thimble sized to exceed the breaking strength of the tow wire.

(c) **Inland tow wire.** The tow wire for inland hawser towing must comply with the requirements in (b) of this subsection except:

(i) The primary tow line for inland towing may be synthetic fiber; and

(ii) Swaged eyes and wire clips may not be used on the primary tow line.

(d) **Bridles and surge chains.** Tank barges must be equipped with:

(i) For coastal hawser towing, tow bridle and surge chains where the:

(A) Breaking strength of each bridle leg and the surge chain is 1.3 times the nominal breaking strength of the primary tow line;

(B) Chain is Grade Two or higher, welded or forged, integral stud link chain; and

(C) Surge chain may have an end link or one studless link;

(ii) For inland hawser towing, tow bridles made of chain or synthetic fiber or wire-rope where the breaking strength of each bridle leg is equal or greater than the nominal breaking strength of the primary tow line.

(e) **Barge fittings.** Tank barges must be equipped with:

(i) Two tow pads to which the tow bridle is connected where the:

(A) Tow pad and supporting structure has a yield strength of 1.25 times the nominal breaking strength of the tow line;

(B) Tow pad can carry the load applied throughout the full arc possible in normal service; and

(C) The axis of the tow pads lie along the axis of the attached bridle leg when towing straight ahead; and

(ii) Towing fairleads if the tow pads are not located at the extreme bow and where:

(A) Closed fairleads or chocks are installed so ~~((the that))~~ that each leg of the tow bridle leads straight from the bridle apex through the center of the fairlead to the tow pad;

(B) The fairlead opening is round or oval, and large enough to pass all parts of the bridle in either direction but without allowing excessive lateral motion;

(C) All fairlead surfaces are ground smooth with a radius four times greater than the bar diameter of the chain, or the diameter of the synthetic or wire-rope used.

(f) **Shackles.** All shackles used must be:

(i) Rated with a breaking strength of 1.3 times the nominal breaking strength of the primary tow line;

(ii) Either round pin anchor or chain safety shackles with a locking nut secured by a nut and bolt, or cotter pin;

(iii) Forged or cast; and

(iv) Marked with the shackle's safe working load and rated or minimum breaking strength.

(g) **Shackle and flounder plates.** Shackle and flounder plates must be:

(i) Constructed of whole plates with no welding other than on assembly gussets and reinforcing rings; and

(ii) Triangular cast, forged, or fabricated steel equal to the ASTM-36 standard with all corners rounded.

(h) **Wire rope records, inspections and maintenance.** All wire rope towing equipment described in (b) through (d) of this subsection shall be inspected and maintained in accordance with the standards in U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) 5-92, enclosure 1, part B.

(i) **Chafing protection.** All towing equipment described in (b) through (e) of this subsection must be protected from chafing where the component contacts a surface that could cause wear during normal operation.

(j) **Tow winches.** Tank barge tow winches must:

(i) Accept and hold a load equal to the breaking strength of the tow line without damage to the winch, its foundation, or brakes;

(ii) Have a brake on the main cable drum capable of holding the breaking strength of the inner most layer of the tow line without power to the winch;

(iii) Have a towing winch cable drum with a minimum diameter 12 times the diameter of the tow line;

(iv) Have a connection between the tow line bitter end and the winch cable drum with a holding capacity no greater than fifteen percent of the breaking strength of the tow line;

(v) Always have ten or more wraps of the tow line on the bottom layer of the cable drum while towing; and

(vi) Have control stations located where emergency release of the tow line does not endanger operating personnel.

~~((4))~~ (3) **Emergency reconnection equipment.** Owners and operators of tank barges and tow vessels transporting the barge shall employ emergency reconnection equipment for coastal hawser towing that meet the following standards.

(a) **Emergency tow line.** Tank barges must be equipped with an emergency tow line and components where the:

(i) Breaking strength of the tow line and components is 1.5 times the bollard pull of the tow vessel;

(ii) Tow line's bitter end is secured down the barge deck from bow to stern with break-away clips; and

(iii) Towing end of the tow line is attached to a trailing buoy with a five-inch polypropylene floating line.

(b) **Hook retrieval device.** Tank barge tow vessels must be equipped with a hook retrieval device slotted to lock into and pick up the tow bridle to be reconnected to the tow vessel's tow line.

~~((5))~~ (4) **Fenders.** Tank barge tow vessels must be equipped with a fender system capable of absorbing the impact of the tow vessel coming along side the tank barge and able to protect all parts of the tow vessel's bow and stern exposed to contact during normal operations.

~~((6))~~ (5) **Navigation lights and day shapes.** Tank barges and tank barge tow vessels must be equipped with navigation lights and day shapes required by the U.S. Coast Guard. Tank barge electrical systems must comply with the American Bureau of Shipping and U.S. Coast Guard standards for the most volatile cargo allowed to be carried by the barge according to the barge's certificate of inspection or other classification document.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-500 Administrative actions.** (1) An owner or operator of a tank vessel who fails to comply with the requirements of this chapter, an approved or conditionally approved oil spill prevention plan, a waiver issued under WAC 317-21-520, or any order issued by the office in administering this chapter may be subject to the following administrative actions:

(a) Plan disapproval;

(b) Restriction of the tank vessel's movements or operations in state waters, or both;

(c) Assessment of civil penalties under RCW 88.46.090;

(d) Referral for prosecution under RCW 88.46.080; or

(e) Denial of entry into state waters.

(2) If the administrator believes that the condition or operation of a tank vessel requires immediate administrative

action to accomplish the purposes of this chapter, the administrator may issue an emergency order under RCW 88.46.070(3) requiring immediate compliance.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-530 Plan updates.** (1) If there is a significant change affecting an oil spill prevention plan, the vessel's owner or operator shall submit an amendment to the plan that reflects the change no later than thirty days after the change occurs.

(2) A significant change includes:

- (a) An increase or decrease in manning levels;
- (b) The owner or operator requires crew training and qualifications different from those described in the plan;
- (c) The configuration of navigation systems, emergency towing systems, or tank barge towing equipment changes from that described in WAC 317-21-265 and 317-21-345;
- (d) The vessel's class or classification society used changes;

(e) The flag nation of a vessel changes;

(f) The vessel's name changes; or

(g) The vessel's owner, operator, or manager changes.

(3) If necessary, owners and operators shall submit a plan update in the form of an amendment by ~~((January 30))~~ March 31 of each year after the plan is approved. Amendments are necessary to reflect significant changes, changes in the owner or operators policies, procedures and practices, and other changes made during the previous year to make the plan current and accurate.

**AMENDATORY SECTION** (Amending WSR 95-01-029, filed 12/9/94, effective 6/7/95)

**WAC 317-21-540 Advance notice of entry and safety reports.** (1) A tank vessel owner or operator shall submit a notice of entry to the office by telephone or facsimile at least twenty-four hours before the vessel enters state waters.

(2) An owner or operator shall submit the following information in the notice of entry;

(a) The vessel's name, country of registry, ~~((type))~~ gross tonnage, call sign, and Lloyd's number;

~~((b)) ((The name, mailing address, facsimile number, and telephone number for immediate contact of the owner or operator, or representative;~~

~~((c)) The name of the person submitting the notice of entry;~~

~~((d)) The name of the vessel master, chief engineer, and chief mate;~~

~~((e)) The name and telephone number of the vessel's local representative or agent;~~

(c) The estimated date, time, and point of entry into state waters by the vessel;

~~((f)) (d) Intended berths or anchorages in Washington;~~

~~((g)) (e) Last ((and next)) port of call;~~

~~((h)) (f) The amount and type of bunker or cargo, or both, that will be transferred;~~

~~((i)) Expected pilotage, tug escort, lightering, or other assistance beyond that required by federal or state law;~~

~~((j)) (g) Whether loaded with cargo;~~

(h) The operational deficiencies of the vessel's primary and auxiliary navigation, propulsion, or cargo containment and transfer systems; and

~~((k)) (i) Identification of the contingency plan covering the vessel under Washington law.~~

(3) If an owner or operator is unable to provide notice twenty-four hours prior to arrival as required by subsection (1) of this section, the owner or operator shall give notice to the office as soon as practicable and shall include an explanation for the delay.

(4) The owner or operator shall submit a safety report with the advance notice of entry describing the condition and corrective action taken if the vessel experiences:

(a) Abnormality or malfunction of any steering, navigation, propulsion, or safety system;

(b) Breach of the hull or integrity of the structure of a cargo, bunker, bilge, or ballast tank that causes or may reasonably be expected to cause an oil spill or loss of stability;

(c) Damage from fire or explosion;

(d) An incomplete engineering or deck complement under United States law or regulation, or under the vessel's nation of registry; or

(e) Any condition that may adversely affect the safety of a vessel, property, or marine environments.

(5) If a tank vessel experiences any condition described in subsection (4) of this section after submitting an advance notice of entry, the office shall be notified by telephone or facsimile immediately after discovery of the condition. A written safety report describing the condition and corrective action taken must be submitted to the office no later than seventy-two hours after the initial report.

**WSR 96-03-073**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH**

[Filed January 17, 1996, 12:31 p.m.]

Date of Adoption: December 16, 1995.

Purpose: To review, amend and repeal medical licensure and disciplinary rules to conform to new statute which combined the Board of Medical Examiners and the Medical Disciplinary Board into the Medical Quality Assurance Commission. It also creates the Medical Quality Assurance Commission under new chapter 246-919 WAC.

Citation of Existing Rules Affected by this Order: Repealing chapters 246-917 and 246-920 WAC; and amending chapter 246-918 WAC; and new chapter 246-919 WAC.

Statutory Authority for Adoption: RCW 18.71.017 and 18.71A.020.

Adopted under notice filed as WSR 95-22-088 on November 1, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 51, amended 23, repealed 99.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 51, amended 23, repealed 99.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 51, amended 23, repealed 99.

Effective Date of Rule: Thirty-one days after filing.

December 19, 1995

Keith O. Shafer  
Executive Director

## Chapter 246-919 WAC MEDICAL QUALITY ASSURANCE COMMISSION

### NEW SECTION

**WAC 246-919-010 Definitions.** (1) "Commission" means the Washington state medical quality assurance commission.

(2) "Applicant" is an individual who has completed the application form and has paid the application fee.

(3) "Physician" means a physician licensed pursuant to chapter 18.71 RCW.

(4) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.71.0193 for conduct occurring before June 11, 1986, and the conduct described in RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(5) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(6) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(7) "Mentally or physically disabled physician" means a physician who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice medicine with reasonable skill and safety by reason of any mental or physical condition.

### NEW SECTION

**WAC 246-919-020 Commission address.** The commission's official mailing address is:

Medical Quality Assurance Commission  
Department of Health  
P.O. Box 47866  
Olympia, WA 98504-7866

### NEW SECTION

**WAC 246-919-030 Current address.** It is the responsibility of each licensee to maintain a current mailing address on file with the commission. The mailing address on file with the commission shall be used for mailing of all official matters from the commission to the licensee. If charges against the licensee are mailed by certified mail to the address on file with the commission and returned unclaimed or are unable to be delivered for any reason, then the commission shall proceed against the licensee by default under RCW 34.05.440.

### NEW SECTION

**WAC 246-919-100 Panel composition.** The term "commission" as used in chapter 246-919 WAC shall mean a duly constituted panel of the Washington state medical quality assurance commission if a panel has been constituted to preside at a hearing. If a panel has not been so constituted, then the term "commission" shall mean the entire commission or a quorum of the entire commission.

### NEW SECTION

**WAC 246-919-110 Commission meetings.** Regular commission meetings shall be held at least four times yearly. Additional regular or special meetings may be called at the discretion of the chair or quorum of the commission.

### NEW SECTION

**WAC 246-919-120 Appearance and practice before agency—Solicitation of business unethical.** It shall be unethical for any person while acting as a representative and/or member of the commission to solicit business based on their association with the commission by circulars, advertisements, or by personal communication or interviews, provided that such representative may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitation of any kind.

### NEW SECTION

**WAC 246-919-130 Appearance and practice before agency—Standards of ethical conduct.** All persons appearing in proceedings before the commission in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the commission may decline to permit such person to appear in a representative capacity in any proceeding before it.

### NEW SECTION

**WAC 246-919-140 Appearance and practice before agency—Appearance by former member of attorney general's staff.** No member of the attorney general's staff assigned to represent the commission may at any time after severing his or her employment with the attorney general appear, except with the written permission of the commission, in a representative capacity on behalf of other parties in a formal proceeding wherein he or she previously took an active part in the investigation as a representative of the commission.

### NEW SECTION

**WAC 246-919-150 Appearance and practice before agency—Former employee and board/commission member as witness.** No former employee of a board/commission or department of health or former board/commission member shall, at any time after severing employment or serving as a board/commission member, appear as a witness on behalf of parties other than the board/commission or department of health in a formal proceeding

wherein he or she previously took an active part in the investigation or deliberation as a representative of the board/ commission of the department of health except with the written permission of the commission.

## RULE PROCESS

### NEW SECTION

**WAC 246-919-200 Petitions for rule making, amendment or repeal—Who may petition.** Any interested person may petition the commission requesting the promulgation, amendment, or repeal of any rule.

### NEW SECTION

**WAC 246-919-210 Petitions for rule making, amendment or repeal—Requisites.** Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

### NEW SECTION

**WAC 246-919-220 Petitions for rule making, amendment or repeal—Agency must consider.** All petitions shall be considered by the commission and the commission may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

### NEW SECTION

**WAC 246-919-230 Petitions for rule making, amendment or repeal—Notice of disposition.** The commission shall notify any petitioning party within a reasonable time of the disposition of the petition.

### NEW SECTION

**WAC 246-919-240 Declaratory rulings.** (1) As prescribed by RCW 34.05.240, any interested person may petition the commission for a declaratory ruling. The commission shall consider the petition and within a reasonable time the commission shall:

- (a) Issue a nonbinding declaratory ruling; or
- (b) Notify the person that no declaratory ruling is to be issued; or
- (c) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

(2) If a hearing as provided in subsection (1)(c) of this section is conducted, the commission shall within a reasonable time:

- (a) Issue a binding declaratory rule; or
- (b) Issue a nonbinding declaratory ruling; or

(c) Notify the petitioner that no declaratory ruling is to be issued.

## APPLICATIONS AND EXAMINATIONS

### NEW SECTION

**WAC 246-919-300 Application withdrawals.** An application for a license may not be withdrawn after the commission or the reviewing commission member determines that grounds exist for denial of the license or for the issuance of a conditional license. Applications which are subject to investigation for unprofessional conduct or impaired practice may not be withdrawn.

### NEW SECTION

**WAC 246-919-305 Refunds.** Application or license fees are not refundable or transferable.

### NEW SECTION

**WAC 246-919-310 Credentialing of physicians and surgeons.** All completed applications, for either limited or full licensure, must be reviewed by a member of the commission or a designee authorized in writing by the commission prior to examination and/or licensure.

### NEW SECTION

**WAC 246-919-320 Approved United States and Canadian medical schools.** For the purposes of the Medical Practice Act, the commission approves those medical schools listed as accredited medical schools in the United States set forth in Appendix II, Table I, and as accredited schools in Canada set forth in Appendix III, Table I, as published in the *Journal of the American Medical Association* for March 7, 1980.

### NEW SECTION

**WAC 246-919-330 Postgraduate medical training defined.** (1) For the purposes of this chapter, postgraduate medical training shall be considered to mean clinical training approved by the commission in general medicine or surgery, or a recognized specialty or subspecialty in the field of medicine or surgery. The training must be acquired after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. Clinical performance deemed unsatisfactory by the program performance evaluation will not be accepted. This definition shall be considered to include, but not be limited to, internships, residencies and fellowships in medical or surgical subjects.

(2) The commission approves the following postgraduate clinical training courses:

(a) Programs accredited by the American Medical Association Accreditation Council for Graduate Medical Education which are listed in the 1984-85 directory of residency programs, or programs approved by the American Medical Association Accreditation Council at the time of residency.

(b) Preregistration training programs approved as of July 1, 1982, by the Canadian National Joint Committee on Accreditation of Preregistration Physician Training Programs,

or programs approved by the Canadian National Joint Committee on Accreditation of Preregistration Physician Training Programs at the time of residency.

#### NEW SECTION

##### **WAC 246-919-340 International medical graduates.**

(1) Except in unusual circumstances, which shall be considered individually by the commission, all graduates of international medical schools who were not licensed in another state prior to 1958 must have obtained the certificate granted by the Educational Commission for Foreign Medical Graduates (ECFMG) or must qualify for exemption as provided for in other sections of these rules and regulations.

(2) A United States citizen or resident alien who has obtained his medical education in a medical school outside the United States, Canada, or Puerto Rico shall be eligible for licensure in the state of Washington if he or she has satisfied the following requirements:

(a) Has completed all of the formal academic requirements for graduation from a medical school outside the United States, provided that such medical school provides a resident course of professional instruction equivalent to that required under RCW 18.71.055 for approval of United States and Canadian schools. An internship and/or social service in an international country shall not be considered to be a part of the formal academic requirements;

(b) Has successfully completed one academic year of supervised clinical training in a program approved by the commission. Approval of such program shall be based on the following requirements:

(i) The program shall be sponsored by a United States medical school approved by the commission;

(ii) The school must provide supervision equivalent to that given undergraduate medical students;

(iii) Admission to such a program shall be contingent upon review of the applicant's academic achievement, completion of the formal academic curriculum of the international medical school, and the attainment of a score satisfactory to the medical school in a qualifying examination acceptable to the commission such as Part 1 of the National Board examination, or day-1 of FLEX examination, or the ECFMG examination;

(iv) The program must include experience in each of the major clinical disciplines;

(c) Has completed the postgraduate clinical hospital training required by the commission of all applicants for licensure; and

(d) Has passed the examination required by the commission of all applicants for licensure.

(3) Satisfaction of the requirements of subsection (2) of this section shall substitute for the completion of any international internship and/or social service required by the international medical school or government as a condition to the awarding of a medical degree or licensure, and no such requirements shall be a condition of licensure as a physician in this state.

(4) Certification by the ECFMG shall not be a condition of licensure as a physician in this state for candidates who have successfully completed the requirements of subsection (2) of this section.

(5) All persons issued a license to practice medicine and surgery by the medical quality assurance commission shall possess all the rights and privileges thereof, including the use of the title "doctor of medicine" and the initials "M.D."

(6) Graduates of international medical schools who do not qualify for licensure under these rules and regulations will be required to meet the rules previously adopted by the commission.

#### NEW SECTION

**WAC 246-919-350 Examinations.** All applications for examination in the state of Washington shall be complete and on file with the Federation of State Medical Boards no later than three months before any USMLE examination.

#### NEW SECTION

**WAC 246-919-355 Examination scores.** Examinations accepted by the Washington state medical quality assurance commission:

(1) The commission adopts the United States Medical Licensing Examination (USMLE) as the examination accepted by the commission.

(2) The minimal passing scores for each component of any approved examination combination shall be a score of seventy-five as defined by the examining authority.

(3) Applicants who do not pass Step 3 of the USMLE examination after three sittings within seven years after passing the first examination, either Step 1 or Step 2, or acceptable combination, shall demonstrate evidence satisfactory to the commission of having completed a remedial or refresher medical course approved by the commission prior to being permitted to sit for the examination again. Applicants who do not pass after the fourth sitting may not sit for another examination without completing an additional year of postgraduate training or satisfying any other conditions specified by the commission.

(4) To be eligible for USMLE Step 3, the applicant must:

(a) Have obtained the M.D. degree;

(b) Have successfully completed the Federation Licensure Examination (FLEX) Component 1 or both National Boards Examination (NBE) Parts I and II or USMLE Steps 1 and 2 or NBE Part I and USMLE Step 2 or Step 1 and NBE Part II; and

(c) Be certified by the ECFMG if a graduate of an international medical school, or have successfully completed a fifth pathway program; and postgraduate training year in a program of graduate medical education accredited by the Accreditation Council for Graduate Medical Education.

#### NEW SECTION

**WAC 246-919-360 Examinations accepted for reciprocity or waiver.** (1) The commission may accept certain examinations as a basis for licensure. These examinations include USMLE, FLEX, NBE, or those given by the other states, with the exception of Florida and Hawaii. Those who have taken the Licentiate of the Medical Council of Canada (L.M.C.C.) and holds a valid LMCC certification obtained after 1969, may be granted a license without examination.

(2) Examination combination acceptable. Any applicant who has successfully completed Part I (NBE) or Step 1 (USMLE) plus Part II or Step 2 plus Part III or Step 3; or FLEX Component 1 plus Step 3; or Part I or Step 1, plus Part II or Step 2, plus FLEX Component 2 shall be deemed to have successfully completed a medical licensure examination as required by RCW 18.71.070. (For clarification, see Table 1.)

Accepted Examinations taken in Sequence	Other Acceptable Combinations
NBME Part I plus NBME Part II plus NBME Part III	NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus NBME Part III or USMLE Step 3
FLEX Component 1 plus FLEX Component 2	FLEX Component 1 plus USMLE Step 3  or  NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus FLEX Component 2
USMLE Step 1 plus USMLE Step 2 plus USMLE Step 3	

**NEW SECTION**

**WAC 246-919-365 FLEX examination standards.**

Reciprocity applicants who were licensed in another state by passing the FLEX examination will be eligible for a waiver of examination if the applicant received a FLEX weighted average score of at least 75. The score may be obtained in a single setting of the three-day examination or by averaging the individual day scores from different examinations. The individual day scores will be averaged according to the following formula:

- Day 1 equals 1/6.
- Day 2 equals 2/6.
- Day 3 equals 3/6.

The overall average score shall be truncated to the nearest whole number (i.e., an average of 74.9 equals 74). Single subject averaging is not permitted. The commission will accept the FLEX weighted average of 75 reported from the Federation of State Medical Boards. All FLEX scores must be submitted directly from the Federation of State Medical

Boards. FLEX scores reported by other states will not be accepted.

**NEW SECTION**

**WAC 246-919-370 Special purpose examination.** (1)

The commission may require an applicant or licensee to pass the Special Purpose Examination (SPEX) or any other examination deemed appropriate. An applicant or licensee may be required to take an examination when the commission has concerns with the applicant's or licensee's ability to practice competently for reasons which may include, but are not limited to, the following:

- (a) Resolved or pending malpractice suits;
- (b) Pending action by another state licensing authority;
- (c) Actions pertaining to privileges at any institution; or
- (d) Not having practiced for an interval of time.

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

**NEW SECTION**

**WAC 246-919-380 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 health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(2) Application for licensure. Applicants for licensure shall submit, prior to being granted a license and in addition to the other requirements, evidence to show compliance with the educational requirements of subsection (3) of this section, certify that such requirements will be satisfied by the date of the applicant's first renewal.

(3) AIDS education and training.

(a) Acceptable education and training. The commission will accept education and training that qualifies for continuing medical education credit. 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) Any reinstatement of a license that is lapsed, inactive, or revoked or actually suspended for a term during which the licensee did not obtain the required AIDS education 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.

(c) Documentation. The applicant for licensure shall certify that the minimum education and training has been completed after January 1, 1987. The documentation of education and training and description of learning shall be maintained for two years after issuance of license.

PERMANENT



NEW SECTION

**WAC 246-919-390 Temporary permits—Recognized jurisdictions.** (1) For the issuance of temporary permits under RCW 18.130.075 to applicants who graduated from a school of medicine located in any state, territory, or possession of the United States, the District of Columbia, or the Dominion of Canada prior to July 28, 1985, the following jurisdictions are deemed to have licensing standards substantially equivalent to Washington state's licensing standards: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(2) For the issuance of temporary permits under RCW 18.130.075 to applicants who graduated from a school of medicine located in any state, territory, or possession of the United States, the District of Columbia, or the Dominion of Canada after July 28, 1985, the following jurisdictions are deemed to have licensing standards substantially equivalent to Washington state's licensing standards: Connecticut, Maine, Michigan, Nevada, and New Hampshire.

(3) For the issuance of temporary permits under RCW 18.130.075 to applicants who graduated from a school of medicine located outside the states, territories, and possessions of the United States, the District of Columbia, or the Dominion of Canada prior to July 28, 1985, the following jurisdictions are deemed to have licensing standards substantially equivalent to Washington state's licensing standards: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(4) For the issuance of temporary permits under RCW 18.130.075 to applicants who graduated from a school of medicine located outside the states, territories, and possessions of the United States, the District of Columbia, or the Dominion of Canada after July 28, 1985, the following jurisdictions are deemed to have licensing standards substantially equivalent to Washington state's licensing standards: Arizona, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Tennessee, Texas, Virginia, West Virginia, and Wyoming.

NEW SECTION

**WAC 246-919-395 Temporary permits—Issuance and duration.** (1) Upon submission of a completed license application form on which the applicant indicates that he or she wishes to receive a temporary practice permit; payment of the application fee and temporary practice permit fee; receipt of the American Medical Association's physicians' data profile verifying states in which the applicant is or was licensed; receipt of disciplinary action data bank report from the Federation of State Medical Boards and receipt of written verification attesting that the applicant has a license in good standing and is not subject to charges or disciplinary action for unprofessional conduct or impairment from all states in which the applicant is or was licensed, the applicant shall be issued a temporary practice permit unless there is a basis for denial of the license or issuance of a conditional license.

(2) The temporary permit shall expire upon the issuance of a license by the commission; initiation of an investigation by the commission of the applicant; or ninety days, whichever occurs first.

(3) An applicant who receives a temporary practice permit and who does not complete the application process may not receive additional temporary practice permits even upon submission of a new application in the future.

**RENEWAL AND CME REQUIREMENTS**NEW SECTION

**WAC 246-919-400 Scope.** This regulation governs all physicians licensed pursuant to chapter 18.71 RCW who wish to renew their licenses to practice in the state of Washington.

NEW SECTION

**WAC 246-919-410 License renewal.** The physician and surgeon license shall be renewed annually or as specified in chapter 18.71 RCW. The date of renewal shall be the licensee's birth date.

An initial license shall expire on the licensee's next birth date. However, if the licensee's next birth date is within three months of the initial date of licensure, the original license shall expire on his or her second birth date following original licensure. Before the expiration date of a license, a courtesy renewal notice will be mailed to the last address on file of every person holding a current license. The licensee is responsible for renewing his or her license prior to the expiration date regardless of whether the licensee receives the courtesy notice. Should the licensee fail to renew his or her license prior to the expiration date, the individual is subject to the statutory penalty fee. If the licensee fails to renew his or her license within three years from expiration date thereof, such individual must apply for licensing under the statutory conditions then in force.

NEW SECTION

**WAC 246-919-420 License renewal form.** A license shall not be renewed until the applicant has submitted completed renewal forms and the full amount of the renewal fee, including any penalty fee for late renewal of the license.

NEW SECTION

**WAC 246-919-430 General requirements.** (1) The commission requires one hundred fifty credit hours of continuing education every three years.

(2) In lieu of the one hundred fifty hours of continuing medical education, the commission will accept a current Physician's Recognition Award from the American Medical Association or a current certificate from any specialty board approved by the American Board of Medical Specialties (ABMS) which is considered by the specialty board as equivalent to the one hundred fifty hours of continuing medical education required under WAC 246-919-430(1). The commission will also accept certification or recertification by a specialty board as the equivalent of one hundred fifty hours of continuing medical education. A list of the approved specialty boards are designated in the 1995 *Official American Boards of Medical Specialty Director of Board Certified Medical Specialist* and will be maintained by the commission. The list shall be made available upon request. The certification or recertification must be obtained in the three years preceding application for renewal.

(3) In case licensees fail to meet the requirements because of illness or other extenuating circumstances, each case will be considered on an individual basis and when the circumstances justify it, the commission or its designee may grant an extension of time.

NEW SECTION

**WAC 246-919-440 Certification of compliance.** (1) Every three years a licensee shall submit an affidavit of compliance with the one hundred fifty-hour continuing medical education requirement on a form supplied by the commission.

(2) The commission reserves the right to require a licensee to submit evidence in addition to the affidavit to demonstrate compliance with the one hundred fifty-hour continuing medical education requirement. Accordingly, it is the responsibility of a licensee to maintain evidence of such compliance.

NEW SECTION

**WAC 246-919-450 Categories of creditable continuing medical education activities.** The licensee may earn all one hundred fifty credit hours in Category I. If the licensee does not earn the one hundred fifty credit hours in Category I, the licensee must earn the total of one hundred fifty credit hours in at least three of the five categories. The following are categories of creditable continuing medical education activities approved by the commission:

- Category I Continuing medical education activities with accredited sponsorship
- Category II Continuing medical education activities with nonaccredited sponsorship (maximum of sixty hours)
- Category III Teaching medical physicians or the allied health services (maximum of sixty hours)
- Category IV Books, papers, publications, exhibits (maximum of sixty hours)
- Category V Nonsupervised: Self-assessment, self-instruction, specialty board examination preparation,

quality of care and/or utilization review (maximum of sixty hours).

NEW SECTION

**WAC 246-919-460 Continuing medical education requirement.** (1) The credits must be earned in the thirty-six-month period preceding application for renewal of licensure.

(2) One clock-hour shall equal one credit-hour for the purpose of satisfying the one hundred fifty-hour continuing medical education requirement.

(3)(a) **Category I: Continuing medical education activities with accredited sponsorship.** A maximum of one hundred fifty credit hours may be earned in Category I. The commission has approved the standards adopted by the Accreditation Council for Continuing Medical Education or its designated interstate accrediting agency, the Washington State Medical Association, in accrediting organizations and institutions offering continuing medical education programs, and will accept attendance at such programs offered by organizations and institutions offering continuing medical education programs, and will accept attendance at such programs offered by organizations and institutions so recognized as credit towards the licensee's continuing medical education requirement for annual renewal of licensure.

(b) **Category II: Continuing medical education activities with nonaccredited sponsorship.** A maximum of sixty credit hours may be earned by attendance at continuing medical education programs that are not approved in accordance with the provisions of Category I.

(c) **Category III: Teaching medical physicians or the allied health services.** A maximum of sixty credit hours may be earned for serving as an instructor of medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program if the hospital or institution has approved the instruction.

(d) **Category IV: Books, papers, publications, exhibits.**

(i) A maximum of sixty credit hours may be earned under Category IV, with specific subcategories listed below. Credit may be earned only during the thirty-six-month period following presentations or publications.

(ii) Ten credit hours may be claimed for a paper, exhibit, publication, or for each chapter of a book that is authored and published. A paper must be published in a recognized medical journal. A paper that is presented at a meeting or an exhibit that is shown must be to physicians or allied health professionals. Credit may be claimed only once for the scientific materials presented. Credit should be claimed as of the date materials were presented or published.

Medical editing can not be accepted in this or any other category for credit.

(e) **Category V: Nonsupervised.**

(i) A maximum of sixty credit hours may be earned under Category V. Credit may be earned only for the thirty-six-month period following the year in which the study, preparation, care and/or review occurred.

(ii) Self-assessment: Credit hours may be earned for completion of a multimedia medical education program.

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(iii) Self-instruction: Credit hours may be earned for the independent reading of scientific journals and books.

(iv) Specialty board examination preparation: Credit hours may be earned for preparation for specialty board certification or recertification examinations.

(v) Quality care and/or utilization review: Credit hours may be earned for participation on a staff committee for quality of care and/or utilization review in a hospital or institution or government agency.

#### NEW SECTION

**WAC 246-919-470 Approval not required.** (1) The commission will not give prior approval for any continuing medical education. The commission will accept any continuing medical education that reasonably falls within these regulations and relies upon each individual physician's integrity in complying with this requirement.

(2) The commission will not give prior approval for any formal continuing medical education program. The continuing medical education category will depend solely upon the accredited status of the organization or institution. The number of creditable hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The commission relies upon the integrity of program sponsors to present continuing medical education that constitutes a meritorious learning experience.

#### NEW SECTION

**WAC 246-919-480 Retired active physician license.** (1) RCW 18.130.250 provides for a retired active license status for individuals already licensed who wish to practice only in emergent or intermittent circumstances. For the purpose of implementing RCW 18.130.250, the licensee must hold a current active license and meet the following criteria:

- (a) The licensee's practice is limited to providing health care services without compensation;
- (b) Services are provided in community clinics located in the state of Washington that are operated by public or private tax-exempt corporations; and
- (c) Services must be limited to primary care.

(2) Individuals requesting a retired active license status must submit a letter to the department at the time of their renewal declaring their intent to practice only on an intermittent or emergency basis as defined in subsection (1) of this section. Physician retired active licenses will not be retroactively issued for prior years.

(3) A licensee wishing to return to a full active license must meet the current requirements for relicensure.

(4) Individuals practicing with a retired active license are subject to chapter 18.130 RCW to the same extent as individuals holding an active license.

(5) Retired active licensees must meet the continuing education requirements established in WAC 246-919-430 through 246-919-470.

## ADJUDICATIVE PROCEDURES

### NEW SECTION

**WAC 246-919-500 Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.** The commission adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for adjudicative proceedings requested by applicants, who are denied a license under chapters 18.71 and 18.71A RCW for failure to meet the education, experience, or examination prerequisites for licensure. The sole issue at the adjudicative proceeding shall be whether the applicant meets the education, experience, and examination prerequisites for the issuance of a license.

### NEW SECTION

**WAC 246-919-510 Adjudicative proceedings.** The commission adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

## STANDARDS FOR PROFESSIONAL CONDUCT

### NEW SECTION

**WAC 246-919-600 Prescriptions—Schedule II stimulant drugs.** (1) A physician shall be guilty of unprofessional conduct if he or she prescribes, orders, dispenses, administers, supplies or otherwise distributes any amphetamines or other Schedule II nonnarcotic stimulant drug to any person except for the therapeutic treatment of:

- (a) Narcolepsy;
- (b) Hyperkinesia;
- (c) Brain dysfunction of sufficiently specific diagnosis, or etiology which clearly indicates the need for these substances in treatment or control;
- (d) Epilepsy;
- (e) Differential psychiatric evaluation of depression; or
- (f) Depression shown to be refractory of other therapeutic modalities; or for the clinical investigation of the effects of such drugs or compounds in which case an investigative protocol must be submitted to and reviewed and approved by the commission before the investigation has begun.

(2) A physician prescribing or otherwise distributing controlled substances as permitted by subsection (1) of this section shall maintain a complete record which must include:

- (a) Documentation of the diagnosis and reason for prescribing; and
- (b) Name, dose, strength, and quantity of drug, and the date prescribed or distributed.

(3) The records required by subsection (2) of this section shall be made available for inspection by the commission or its authorized representative upon request.

(4) Schedule II stimulant drugs shall not be dispensed or prescribed for the treatment or control of exogenous obesity.

NEW SECTION

**WAC 246-919-610 Use of drugs or autotransfusion to enhance athletic ability.** (1) A physician shall not prescribe, administer or dispense anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), other hormones, or any form of autotransfusion for the purpose of enhancing athletic ability.

(2) A physician shall complete and maintain patient medical records which accurately reflect the prescribing, administering or dispensing of any substance or drug described in this rule or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug or autotransfusion is prescribed, administered or dispensed and any additional information upon which the diagnosis is based.

(3) A violation of any provision of this rule shall constitute grounds for disciplinary action under RCW 18.130.180(7). A violation of subsection (1) of this section shall also constitute grounds for disciplinary action under RCW 18.130.180(6).

NEW SECTION**WAC 246-919-620 Cooperation with investigation.**

(1) A licensee must comply with a request, under RCW 70.02.050, for health care records or documents from an investigator who is acting on behalf of the disciplining authority pursuant to RCW 18.130.050(2) by submitting the requested items within fourteen calendar days of receipt of the request by the licensee or the licensee's attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator shall contact the licensee or the licensee's attorney by letter as a reminder.

(a) Investigators may extend the time for response if the licensee requests an extension for a period not to exceed seven calendar days. Other requests for extension may be granted by the commission chair or the commission's designee.

(b) If the licensee fails to comply with the request within three business days after the receipt of the written reminder, a statement of charges shall be issued pursuant to RCW 18.130.180(8) and, if there is sufficient evidence to support additional charges, those charges may be included in the statement of charges.

(2) A licensee must comply with a request for nonhealth care records or documents from an investigator who is acting on behalf of the commission pursuant to RCW 18.130.050(2) by submitting the requested items within fourteen calendar days of receipt of the request by the licensee or the licensee's attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator shall contact the licensee or the licensee's attorney by letter as a reminder.

(a) Investigators may extend the time for response if the licensee requests an extension for a period not to exceed seven calendar days. Other requests for extension may be granted by the commission chair or the commission's designee.

(b) If the licensee fails to comply with the request within three business days after the receipt of the written

reminder, then a subpoena shall be served upon the licensee to obtain the requested items.

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

(3) A licensee must comply with a request for information from an investigator who is acting on behalf of the commission pursuant to RCW 18.130.050(2). This information may include, but is not limited to, an explanation of the matter under investigation, curriculum vitae, continuing medical education credits, malpractice action summaries, or hospital affiliations. The licensee will submit the requested information within fourteen calendar days of receipt of the request by the licensee or the licensee's attorney, whichever is first. If the licensee fails to comply with the request within fourteen calendar days, the investigator shall contact the licensee or the licensee's attorney by letter as a reminder.

(a) Investigators may extend the time for response if the licensee requests an extension for a period not to exceed seven calendar days. Other requests for extension may be granted by the commission chair or the commission's designee.

(b) If the licensee fails to comply with the written reminder within three business days after the receipt of the reminder, a statement of charges shall be issued pursuant to RCW 18.130.180(8) and, if there is sufficient evidence to support additional charges, then those charges may be included in the statement of charges.

(4) In negotiating a settlement on a statement of charges based on RCW 18.130.180(8), the reviewing commission member may take into consideration whether the licensee has complied with the request after the statement of charges has been issued. Any settlement proposal shall be presented to the commission or a duly constituted panel of the commission for a decision on ratification and until ratified, the settlement is not final.

**MANDATORY REPORTING**NEW SECTION

**WAC 246-919-700 Mandatory reporting.** (1) All reports required by these regulations shall be submitted to the commission as soon as possible, but not later than sixty days after a determination is made.

(2) A report should contain the following information if known:

(a) The name, address and telephone number of the person making the report;

(b) The name, address and telephone numbers of the physician being reported;

(c) The case number of any patient whose treatment is a subject of the report;

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences;

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number; and

(f) Any further information which would aid the evaluation of the report.

(3) The mandatory reporting shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept for the confidential use of the commission as provided in the Uniform Disciplinary Act and shall not be subject to subpoena or discovery proceedings in any civil action as provided in RCW 4.24.250, and shall be exempt from public disclosure pursuant to chapter 42.17 RCW except for review as provided in RCW 18.71.0195.

NEW SECTION

**WAC 246-919-710 Mandatory reporting requirement satisfied.** The requirement for a report to the commission under RCW 18.71.0193(1) may be satisfied by submitting the report to the impaired physician program approved by the commission under this chapter.

NEW SECTION

**WAC 246-919-720 Health care institutions.** The chief administrator or executive officer of any health care institutions, which includes, but is not limited to, hospitals, clinics and nursing homes, shall report to the commission when any physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's bylaws, that a physician has either committed an act or acts which may constitute unprofessional conduct or that a physician may be mentally or physically disabled. Said officer shall also report if a physician accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon unprofessional conduct or upon being mentally or physically disabled.

NEW SECTION

**WAC 246-919-730 Medical associations or societies.** The president or chief executive officer of any medical association or society within this state shall report to the commission when a medical society hearing panel or committee determines that a physician has committed unprofessional conduct or that a physician may not be able to practice medicine with reasonable skill and safety to patients as the result of any mental or physical condition and constitutes an apparent risk to the public health, safety or welfare. The report required by this subsection shall be made without regard to whether the license holder appeals, accepts or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

**WAC 246-919-740 Health care service contractors and disability insurance carriers.** The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A and 48.44 RCW operating in the state of Washington, shall report to the commission all final determinations that a physician has engaged in flagrant overcharging for medical services or has flagrantly engaged in overutilization of medical services or has charged fees for medical services not actually provided.

NEW SECTION

**WAC 246-919-750 Courts.** The commission requests the assistance of all clerks of trial courts within the state to report all medical malpractice judgments and all convictions of licensed medical doctors, other than minor traffic violations.

NEW SECTION

**WAC 246-919-760 State and federal agencies.** The commission requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a physician is employed to provide patient care services, to report to the commission whenever such a physician has been judged to have demonstrated his/her incompetency or negligence in the practice of medicine, or has otherwise committed unprofessional conduct; or is a mentally or physically disabled physician.

NEW SECTION

**WAC 246-919-770 Professional standards review organizations.** When authorized by federal law, every professional standards review organization operating within the state of Washington shall report to the commission any determinations that a physician has engaged or is engaging in consistent, excessive utilization of any medical or surgical test, treatment or procedure when such procedures are clearly not called for under the circumstances in which such services were provided.

**PHYSICIAN AND SURGEON FEES**

NEW SECTION

**WAC 246-919-990 Physician and surgeon fees.** The following nonrefundable fees shall be charged by the health professional quality assurance division of the department of health:

Title of Fee	Fee
Physician and surgeons: Chapter 18.71 RCW	
Application	\$300.00
Retired active physician license renewal	125.00
Renewal	100.00
Disciplinary assessment	100.00
Late renewal penalty	50.00
Surcharge for impaired physician program	25.00
State certification	50.00
Duplicate license	15.00
Temporary permit	50.00
Postgraduate limited license fees: RCW 18.71.095	
Limited license application	200.00
Limited license renewal	100.00
Disciplinary assessment	100.00
Surcharge-impaired physician	25.00
Limited duplicate license	15.00

PERMANENT

**Chapter 246-918 WAC  
PHYSICIAN(S) ASSISTANTS—(~~BOARD OF~~  
MEDICAL EXAMINERS)) MEDICAL QUALITY  
ASSURANCE COMMISSION**

AMENDATORY SECTION (Amending WSR 93-21-016, filed 10/11/93, effective 11/11/93)

**WAC 246-918-005 Definitions.** The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "Certified physician assistant" means an individual who has successfully completed an American Medical Association accredited and (~~board~~) commission approved physician assistant program and has passed the initial national boards examination administered by the National Commission on Certification of Physician Assistants (NCCPA).

(2) "Physician assistant" means an individual who has:

(a) Successfully completed an American Medical Association accredited and (~~board~~) commission approved physician assistant program and is eligible for the NCCPA examination;

(b) Qualified based on work experience and education and was licensed prior to July 1, 1989; or

(c) Graduated from (~~a foreign~~) an international medical school and was licensed prior to July 1, 1989.

(3) "Physician assistant-surgical assistant" means an individual who was licensed as a physician assistant between September 30, 1989, and December 31, 1989, to function in a limited extent as authorized in WAC 246-918-230.

(4) "Licensee" means an individual licensed as a certified physician assistant, physician assistant, or physician assistant-surgical assistant.

(5) "~~Board~~) Commission approved program" means a physician assistant program that maintains *Committee on Allied Health Education and Accreditation* standards as defined in the "essentials" of the council of medical education of the American Medical Association.

(6) "Sponsoring physician" means the physician who is responsible for consulting with a certified physician assistant. An appropriate degree of supervision is involved.

(7) "Supervising physician" means the physician who is responsible for closely supervising, consulting, and reviewing the work of a physician assistant.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-006 Refunds.** Application(~~, registra-~~  
~~tion~~)) or license fees are not refundable or transferable.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-007 Application withdrawals.** An application for a license may not be withdrawn after the (~~board~~) commission or the reviewing (~~board~~) commission member determines that grounds for denial of the license or the issuance of a conditional license may be appropriate. Applications which are subject to investigation for unprofessional conduct or impaired practice may not be withdrawn.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-008 Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.** The (~~board~~) commission adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for adjudicative proceedings requested by applicants, who are denied a license under chapter 18.71A RCW for failure to meet the education, experience, or examination prerequisites for licensure. The sole issue at the adjudicative proceeding shall be whether the applicant meets the education, experience, and examination prerequisites for the issuance of a license.

AMENDATORY SECTION (Amending WSR 93-21-016, filed 10/11/93, effective 11/11/93)

**WAC 246-918-009 Adjudicative proceedings.** The (~~board~~) commission adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-030 Prescriptions issued by physician assistants.** A physician assistant may issue written or oral prescriptions as provided herein when approved by the (~~board~~) commission and assigned by the supervising physician(s).

(1) A physician assistant may not prescribe controlled substances unless specifically approved by the (~~board~~) commission or its designee. A physician assistant may issue prescriptions for legend drugs for a patient who is under the care of the physician(s) responsible for the supervision of the physician assistant.

(a) Written prescriptions shall include the name, address, and telephone number of the physician or medical group; the name and address of the patient and the date on which the prescription was written.

(b) The physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A."

(c) Written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, the supervising physician's D.E.A. registration number, followed by the letters "P.A." and the physician assistant's license number.

(2) A physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, order pharmaceutical agents for inpatients under the care of the physician(s) responsible for his or her supervision.

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

(4) Physician assistants may dispense medications the physician assistant has prescribed from office supplies. The physician assistant shall comply with the state laws concerning prescription labeling requirements.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-035 Certified physician assistant prescriptions.** A certified physician assistant may issue written or oral prescriptions as provided herein when approved by the ~~((board))~~ commission or its designee.

(1) Written prescriptions shall include the name, address, and telephone number of the physician or medical group; the name and address of the patient and the date on which the prescription was written.

(a) The certified physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A.-C."

(b) The written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, the sponsoring physician's D.E.A. registration number, followed by the letters "P.A.-C" and the physician assistant's license number.

(2) A certified physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws, rules and regulations of the institution, order pharmaceutical agents for inpatients under the care of the sponsoring physician(s).

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

(4) Certified physician assistants may dispense medications the certified physician assistant has prescribed from office supplies. The certified physician assistant shall comply with the state laws concerning prescription labeling requirements.

AMENDATORY SECTION (Amending Order 147B, filed 2/26/91, effective 3/29/91)

**WAC 246-918-050 Physician assistant qualifications effective January 1, 1990.** Individuals applying to the ~~((board))~~ commission under chapter 18.71A RCW after December 31, 1989, shall be required to have graduated from a ~~((board))~~ commission approved physician assistant program and be NCCPA examination eligible.

AMENDATORY SECTION (Amending Order 203B, filed 10/2/91, effective 11/2/91)

**WAC 246-918-070 Credentialing of physician assistants.** All completed applications ~~((;))~~ for ~~((either original or transfer))~~ licensure ~~((, must))~~ shall be reviewed by a member of the ~~((board))~~ commission or a designee authorized in writing by the ~~((board))~~ commission, prior to licensure.

AMENDATORY SECTION (Amending Order 147B, filed 2/26/91, effective 3/29/91)

**WAC 246-918-080 Physician assistant—~~((Registration))~~ Licensure.** ~~((Classification. Each physician assistant will be classified according to the specialty or content of his or her training program.~~

~~((2-Registration))~~ Application procedure. Applications ~~((shall))~~ may be made jointly by the physician and the physician assistant on forms supplied by the ~~((board))~~ commission. Applications and supporting documents must

be on file in the ~~((board))~~ commission office prior to consideration for ~~((registration))~~ licensure.

~~((2))~~ No physician assistant or physician assistant-surgical assistant shall begin practice without commission approval of the practice plan of that working relationship. Practice plans must be submitted on forms provided by the commission.

Change in supervision. In the event that a physician assistant or physician assistant-surgical assistant who is currently licensed desires to become associated with another physician, he or she must submit a new practice plan.

~~((3))~~ ~~((Registration))~~ Licensure expiration and renewal. ~~((Physician assistant original registration will be issued to expire on the physician assistant's next birthdate. Each registered assistant and the registering physician shall be required to submit an application and fees annually for renewal of their registration at least sixty days prior to the expiration of the registration. Application for renewal shall be submitted on forms provided by the board. A physician assistant may allow his or her registration to expire for no longer than three years and reinstate it by submitting an application with all the required documents and application fee. After three years registration expiration, the physician assistant will be considered a new applicant and will have to meet all statutes and rules in effect at the time of the new application.~~

~~((4))~~ Change of registration. In the event that a physician assistant who is currently registered desires to become associated with another physician. Application for transfer of registration shall be made on forms provided by the board.) The physician assistant's license shall be renewed annually. The date of renewal shall be the licensee's birth date.

An initial license shall expire on the licensee's next birth date. However, if the licensee's next birth date is within three months of the initial date of licensure, the original license shall expire on his or her second birth date following original licensure. Before the expiration date of a license, a courtesy renewal notice will be mailed to the last address on file of every person holding a current license. The licensee is responsible for renewing his or her license prior to the expiration date regardless of whether the licensee receives the courtesy notice. If the licensee fails to renew his or her license within three years from expiration date thereof, such individual must apply for licensing under the statutory conditions then in force.

AMENDATORY SECTION (Amending Order 321B, filed 12/14/92, effective 1/14/93)

**WAC 246-918-085 License renewal form.** A license shall not be renewed until the ~~((applicant))~~ licensee has submitted ~~((completed))~~ all required renewal forms and the full amount of the renewal fee ~~((, including any penalty fee for late renewal of the license))~~.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-090 Physician assistant and certified physician assistant utilization.** No physician shall serve as primary supervisor or sponsor for more than three licensees

without ~~((special))~~ authorization by the ~~((board))~~ commission.

**AMENDATORY SECTION** (Amending WSR 94-15-065, filed 7/19/94, effective 8/19/94)

**WAC 246-918-095 Scope of practice—Osteopathic alternate physician.** The physician assistant licensed under chapter 18.71A RCW practices under the practice plan and prescriptive authority approved by the ~~((board))~~ commission whether the alternate sponsoring physician or alternate supervising physician is licensed under chapter 18.57 or 18.71 RCW.

**AMENDATORY SECTION** (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-110 Termination of sponsorship or supervision.** Upon termination of the working relationship, ~~((the board shall require))~~ the sponsoring or supervising physician and the licensee are each required to ~~((each))~~ submit a letter to the commission indicating the relationship has been terminated and may summarize their observations of the working relationship. Exceptions to this requirement may be authorized by the ~~((board))~~ commission or its designee.

**AMENDATORY SECTION** (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-120 Remote site—Utilization—Limitations, geographic.** (1) No licensee shall be utilized in a remote site without approval by the ~~((board))~~ commission or its designee. A remote site is defined as a setting physically separate from the sponsoring or supervising physician's primary place for meeting patients or a setting where the physician is present less than twenty-five percent of the practice time of the licensee.

(2) Approval by the ~~((board))~~ commission or its designee may be granted to utilize a licensee in a remote site if:

(a) There is a demonstrated need for such utilization;  
(b) Adequate provision for ~~((immediate))~~ timely communication between the primary or alternate physician and the licensee exists;

(c) The responsible sponsoring or supervising physician spends at least ten percent of the practice time of the licensee in the remote site. In the case of part time or unique practice settings, the physician may petition the ~~((board))~~ commission to modify the on-site requirement providing the sponsoring physician demonstrates that adequate supervision is being maintained by an alternate method. The ~~((board))~~ commission will consider each request on an individual basis;

(d) The names of the sponsoring or supervising physician and the licensee shall be prominently displayed at the entrance to the clinic or in the reception area.

**AMENDATORY SECTION** (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-130 Physician assistants.** (1) A physician assistant may perform only those services as outlined in the standardized procedures reference and

guidelines established by the ~~((board))~~ commission. If said assistant is being trained to perform additional procedures beyond those established by the ~~((board))~~ commission, the training must be carried out under the direct, personal supervision of the supervising physician or a qualified person mutually agreed upon by the supervising physician and the physician assistant. Requests for approval of newly acquired skills shall be submitted to the ~~((board))~~ commission and may be granted by a reviewing ~~((board))~~ commission member or at any regular meeting of the ~~((board))~~ commission.

(2) The physician assistant may not practice in a remote site, or prescribe controlled substances unless specifically approved by the ~~((board))~~ commission or its designee.

(3) A physician assistant may sign and attest to any document that might ordinarily be signed by a licensed physician, to include but not limited to such things as birth and death certificates.

(4) A physician assistant and supervising physician shall ensure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the physician assistant. Every written entry shall be reviewed and countersigned by the supervising physician within two working days unless a different time period is authorized by the ~~((board))~~ commission.

~~((4))~~ (5) It shall be the responsibility of the physician assistant and the supervising physician to ensure that adequate supervision and review of the work of the physician assistant are provided.

~~((5))~~ (6) In the temporary absence of the supervising physician, the supervisory and review mechanisms shall be provided by a designated alternate supervisor(s).

~~((6))~~ (7) The physician assistant, at all times when meeting or treating patients, must wear a badge identifying him or her as a physician assistant.

~~((7))~~ (8) No physician assistant may be presented in any manner which would tend to mislead the public as to his or her title.

**AMENDATORY SECTION** (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-140 Certified physician assistants.** (1) A certified physician assistant may perform only those services as outlined in the standardized procedures reference and guidelines established by the ~~((board))~~ commission. If said assistant is being trained to perform additional procedures beyond those established by the ~~((board))~~ commission, the training must be carried out under the direct, personal supervision of the sponsoring physician or a qualified person mutually agreed upon by the sponsoring physician and the certified physician assistant. Requests for approval of newly acquired skills shall be submitted to the ~~((board))~~ commission and may be granted by a reviewing ~~((board))~~ commission member or at any regular meeting of the ~~((board))~~ commission.

(2) A certified physician assistant may sign and attest to any document that might ordinarily be signed by a licensed physician, to include, but not limited to such things as birth and death certificates.



(3) It shall be the responsibility of the certified physician assistant and the sponsoring physician to ensure that appropriate consultation and review of work are provided.

~~((3))~~ (4) In the temporary absence of the sponsoring physician, the consultation and review of work shall be provided by a designated alternate sponsor(s).

~~((4))~~ (5) The certified physician assistant must, at all times when meeting or treating patients, wear a badge identifying him or her as a certified physician assistant.

~~((5))~~ (6) No certified physician assistant may be presented in any manner which would tend to mislead the public as to his or her title.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-170 Physician assistant and certified physician assistant AIDS prevention and information education requirements.** (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of human immunodeficiency virus (HIV-related) illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the department of health 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 licensure shall submit, prior to being granted a license and in addition to the other requirements, evidence to show compliance with the educational requirements of subsection (4) of this section.

~~(3) ((1989 renewal of license. Effective with the renewal period beginning July 1, 1989, through June 30, 1990, all licensees making application for renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4) of this section. Renewal applicants who have documented circumstances which prevent obtaining the required education on AIDS may petition the board for an extension.~~

~~(4))~~ AIDS education and training.

(a) Acceptable education and training. The ~~((board))~~ commission will accept education and training that qualifies for continuing medical education credit. 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 that is lapsed, inactive, or revoked or actually suspended for a term during which the licensee did not obtain the required AIDS education 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.~~

~~(e))~~ 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 education and training and description of the learning;

(iii) Be prepared to validate, through submission of these records, that education and training has taken place.

AMENDATORY SECTION (Amending Order 278B, filed 6/3/92, effective 7/4/92)

**WAC 246-918-180 Continuing medical education requirements.** (1) Each licensee is required to have and attest to one hundred hours of continuing medical education every two years for renewal. A licensee shall be required to submit evidence of compliance upon request by the ~~((board))~~ commission.

(2) In lieu of one hundred hours of continuing medical education the ~~((board))~~ commission will accept a current certification with the National Commission for the Certification of Physician Assistants and will consider approval of other programs as they are developed.

(3) If a licensee fails to meet the requirements because of illness or other extenuating circumstances, each case will be considered by the ~~((board))~~ commission or its designee on an individual basis.

(4) The ~~((board))~~ commission approves the following categories of creditable continuing medical education. A minimum of forty credit hours must be earned in Category I.

Category I Continuing medical education activities with accredited sponsorship

Category II Continuing medical education activities with nonaccredited sponsorship and other meritorious learning experience.

(5) The ~~((board))~~ commission adopts the standards approved by the American Academy of Physician Assistants for the evaluation of continuing medical education requirements in determining the acceptance and category of any continuing medical education experience.

(6) One clock hour shall equal one credit hour for the purpose of satisfying the one hundred hour continuing medical education requirement.

(7) It will not be necessary to inquire into the prior approval of any continuing medical education. The ~~((board))~~ commission will accept any continuing medical education that reasonably falls within these regulations and relies upon each licensee's integrity in complying with this requirement.

(8) Continuing medical education sponsors need not apply for nor expect to receive prior ~~((board))~~ commission approval for a formal continuing medical education program. The continuing medical education category will depend solely upon the accredited status of the organization or institution. The number of hours may be determined by counting the contact hours of instruction and rounding to the nearest quarter hour. The ~~((board))~~ commission relies upon the integrity of the program sponsors to present continuing medical education for licensees that constitutes a meritorious learning experience.

AMENDATORY SECTION (Amending WSR 93-21-016, filed 10/11/93, effective 11/11/93)

**WAC 246-918-250 Basic physician assistant-surgical assistant duties.** The physician assistant-surgical assistant who is not eligible to take the NCCPA certifying exam shall:

- (1) Function only in the operating room as approved by the ~~((board))~~ commission;
- (2) Only be allowed to close skin and subcutaneous tissue, placing suture ligatures, clamping, tying and clipping of blood vessels, use of cautery for hemostasis under direct supervision;
- (3) Not be allowed to perform any independent surgical procedures, even under direct supervision, and will be allowed to only assist the operating surgeon;
- (4) Have no prescriptive authority; and
- (5) Not write any progress notes or order(s) on hospital-patients, except operative notes.

AMENDATORY SECTION (Amending Order 360B, filed 5/5/93, effective 6/5/93)

**WAC 246-918-260 Physician assistant-surgical assistant—Utilization and supervision.** (1) ~~((Utilization plan. The transfer or dual application for licensure as a physician assistant-surgical assistant must include a detailed plan describing the manner in which the physician assistant-surgical assistant will be utilized. Such utilization plan shall specify which physician assistant-surgical assistant tasks set forth in WAC 246-918-250 will be performed by the physician assistant-surgical assistant.))~~ Responsibility of physician assistant-surgical assistant. The physician assistant-surgical assistant is responsible for performing only those tasks authorized by the supervising physician(s) and within the scope of physician assistant-surgical assistant practice described in WAC 246-918-250. The physician assistant-surgical assistant is responsible for ensuring his or her compliance with the rules regulating physician assistant-surgical assistant practice and failure to comply may constitute grounds for disciplinary action.

(2) Limitations, geographic. No physician assistant-surgical assistant shall be utilized in a place geographically separated from the institution in which the assistant and the supervising physician are authorized to practice.

(3) Responsibility of supervising physician(s). Each physician assistant-surgical assistant shall perform those tasks he or she is authorized to perform only under the supervision and control of the supervising physician(s), but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where the services are rendered. It shall be the responsibility of the supervising physician(s) to insure that:

(a) The operating surgeon in each case directly supervises and reviews the work of the physician assistant-surgical assistant. Such supervision and review shall include remaining in the surgical suite until the surgical procedure is complete;

(b) The physician assistant-surgical assistant shall wear a badge identifying him or her as a "physician assistant-surgical assistant" or "P.A.S.A." In all written documents and other communication modalities pertaining to his or her professional activities as a physician assistant-surgical

assistant, the physician assistant-surgical assistant shall clearly denominate his or her profession as a "physician assistant-surgical assistant" or "P.A.S.A.";

(c) The physician assistant-surgical assistant is not presented in any manner which would tend to mislead the public as to his or her title.

~~((4) Responsibility of physician assistant-surgical assistant. The physician assistant-surgical assistant is responsible for performing only those tasks authorized by the supervising physician(s) and within the scope of physician assistant-surgical assistant practice described in WAC 246-918-250. The physician assistant-surgical assistant is responsible for ensuring his or her compliance with the rules regulating physician assistant-surgical assistant practice and failure to comply may constitute grounds for disciplinary action.))~~

AMENDATORY SECTION (Amending Order 147B, filed 2/26/91, effective 3/29/91)

**WAC 246-918-310 Acupuncture—Definition.** (1) Acupuncture is a traditional system of medical theory, oriental diagnosis and treatment used to promote health and treat organic or functional disorders, by treating specific acupuncture points or meridians. Acupuncture includes the following techniques:

- (a) Use of acupuncture needles to stimulate acupuncture points and meridians.
- (b) Use of electrical, mechanical or magnetic devices to stimulate acupuncture points and meridians.
- (c) Moxibustion.
- (d) Acupressure.
- (e) Cupping.
- (f) Gwa hsa (dermal friction technique).
- (g) Infra-red.
- (h) Sonopuncture.
- (i) Laser puncture.
- (j) Dietary advice.
- (k) Manipulative therapies.
- (l) Point injection therapy (aquapuncture).

These terms are to be understood within the context of the oriental medical art of acupuncture, and as the ~~((board))~~ commission defines them.

AMENDATORY SECTION (Amending Order 131, filed 2/26/91, effective 3/29/91)

**WAC 246-918-990 Fees.** The following fees shall be charged by the ~~((professional licensing))~~ health professions quality assurance division of the department of health:

Title of Fee	Fee
Physician's assistants, <u>certified</u>	
<u>physician assistants, physician</u>	
<u>assistant-surgical assistants,</u>	
<u>acupuncture physician assistants:</u>	
Application	\$50.00
Renewal	35.00
Duplicate license	15.00

PERMANENT

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 246-917-020	Board meetings.
WAC 246-917-025	Refunds.
WAC 246-917-026	Application withdrawals.
WAC 246-917-030	Approved United States and Canadian medical schools.
WAC 246-917-040	Postgraduate medical training defined.
WAC 246-917-050	Foreign medical graduates.
WAC 246-917-060	AIDS prevention and information education requirements.
WAC 246-917-070	Credentialing of physicians and surgeons.
WAC 246-917-080	Examinations.
WAC 246-917-090	Applications for examination.
WAC 246-917-100	Examination scores.
WAC 246-917-110	FLEX examination standards.
WAC 246-917-120	Examinations accepted for reciprocity or waiver.
WAC 246-917-121	Special purpose examination.
WAC 246-917-125	Temporary permits—Recognized jurisdictions.
WAC 246-917-126	Temporary permits—Issuance and duration.
WAC 246-917-130	License renewal.
WAC 246-917-135	License renewal form.
WAC 246-917-140	Scope.
WAC 246-917-150	General requirements.
WAC 246-917-160	CME requirements during cycle revision.
WAC 246-917-170	Categories of creditable continuing medical education activities.
WAC 246-917-180	Continuing medical education requirement.
WAC 246-917-190	Approval not required.
WAC 246-917-200	Certification of compliance.
WAC 246-917-210	Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.
WAC 246-917-220	Adjudicative proceedings.
WAC 246-917-300	Retired active physician license.
WAC 246-917-990	Physician and surgeon fees.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 246-920-020	Prescriptions—Schedule II stimulant drugs.
WAC 246-920-030	Cooperation with investigation.
WAC 246-920-040	Use of drugs or autotransfusion to enhance athletic ability.
WAC 246-920-120	Construction.

WAC 246-920-130	Responsibility for maintaining mailing address on file with the board.
WAC 246-920-140	Appearance and practice before agency—Who may appear.
WAC 246-920-150	Appearance and practice before agency—Solicitation of business unethical.
WAC 246-920-160	Appearance and practice before agency—Standards of ethical conduct.
WAC 246-920-170	Appearance and practice before agency—Appearance by former member of attorney general's staff.
WAC 246-920-180	Appearance and practice before agency—Former employee and board member as witness.
WAC 246-920-190	Computation of time.
WAC 246-920-200	Notice and opportunity for hearing in contested cases.
WAC 246-920-210	Service of process—By whom served.
WAC 246-920-220	Service of process—Upon whom served.
WAC 246-920-230	Service of process—Service upon parties.
WAC 246-920-240	Service of process—Method of service.
WAC 246-920-250	Service of process—When service complete.
WAC 246-920-260	Service of process—Filing with Washington state medical disciplinary board.
WAC 246-920-270	Subpoenas where provided by law—Form.
WAC 246-920-280	Subpoenas where provided by law—Issuance to parties.
WAC 246-920-290	Subpoenas where provided by law—Service.
WAC 246-920-300	Subpoenas where provided by law—Fees.
WAC 246-920-310	Subpoenas where provided by law—Proof of service.
WAC 246-920-320	Subpoenas where provided by law—Quashing.
WAC 246-920-330	Subpoenas where provided by law—Enforcement.
WAC 246-920-340	Subpoenas where provided by law—Geographical scope.
WAC 246-920-350	Depositions and interrogatories in contested cases—Right to take.
WAC 246-920-360	Depositions and interrogatories in contested cases—Scope.
WAC 246-920-370	Depositions and interrogatories in contested cases—Officer before whom taken.
WAC 246-920-380	Depositions and interrogatories in contested cases—Authorization.

- PERMANENT
- WAC 246-920-390 Depositions and interrogatories in contested cases—Protection of parties and deponents.
- WAC 246-920-400 Depositions and interrogatories in contested cases—Oral examination and cross-examination.
- WAC 246-920-410 Depositions and interrogatories in contested cases—Recordation.
- WAC 246-920-420 Depositions and interrogatories in contested cases—Signing attestation and return.
- WAC 246-920-430 Depositions and interrogatories in contested cases—Use and effect.
- WAC 246-920-440 Depositions and interrogatories in contested cases—Fees of officers and deponents.
- WAC 246-920-450 Depositions upon interrogatories—Submission of interrogatories.
- WAC 246-920-460 Depositions upon interrogatories—Interrogation.
- WAC 246-920-470 Depositions upon interrogatories—Attestation and return.
- WAC 246-920-480 Depositions upon interrogatories—Provisions of deposition rule.
- WAC 246-920-490 Official notice—Matters of law.
- WAC 246-920-500 Official notice—Material facts.
- WAC 246-920-510 Presumptions.
- WAC 246-920-520 Stipulations and admissions of record.
- WAC 246-920-530 Form and content of decisions in contested cases.
- WAC 246-920-540 Definition of issues before hearing.
- WAC 246-920-550 Prehearing conference rule—Authorized.
- WAC 246-920-560 Prehearing conference rule—Record of conference action.
- WAC 246-920-570 Motions.
- WAC 246-920-580 Submission of documentary evidence in advance.
- WAC 246-920-590 Excerpts from documentary evidence.
- WAC 246-920-600 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
- WAC 246-920-610 Continuances.
- WAC 246-920-620 Rules of evidence—Admissibility criteria.
- WAC 246-920-630 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
- WAC 246-920-640 Petitions for rule making, amendment or repeal—Who may petition.
- WAC 246-920-650 Petitions for rule making, amendment or repeal—Requisites.
- WAC 246-920-660 Petitions for rule making, amendment or repeal—Agency must consider.
- WAC 246-920-670 Petitions for rule making, amendment or repeal—Notice of disposition.
- WAC 246-920-680 Declaratory rulings.
- WAC 246-920-690 Forms.
- WAC 246-920-710 General provisions.
- WAC 246-920-720 Mandatory reporting.
- WAC 246-920-730 Health care institutions.
- WAC 246-920-740 Medical associations or societies.
- WAC 246-920-750 Health care service contractors and disability insurance carriers.
- WAC 246-920-760 Courts.
- WAC 246-920-770 State and federal agencies.
- WAC 246-920-780 Professional standards review organizations.
- WAC 246-920-890 Canvassing and certification.

**WSR 96-03-074**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**

[Filed January 17, 1996, 2:22 p.m.]

Date of Adoption: January 17, 1996.

Purpose: Establish rules applying to the new mandatory alcohol server training program.

Statutory Authority for Adoption: RCW 66.08.030.

Other Authority: RCW 66.20.300 - 66.20.350.

Adopted under notice filed as WSR 95-24-039 on November 29, 1995.

Changes Other than Editing from Proposed to Adopted Version: In WAC 314-14-020(2), the reference to WAC 314-14-025 was corrected to read WAC 314-14-030. The section originally cited was renumbered in the final drafting of the proposed rule, but the internal reference indicated the original language. (No change to actual meaning.) (WAC 314-14-170 was withdrawn following the public hearing).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 16, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 16, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 17, 1996  
Mike Murphy  
Chairman

### NEW SECTION

**WAC 314-14-010 Class 12 permit - Mixologist.** (1) "Mixologist Permit" refers to the Class 12 permit. Mixologists are liquor licensees or their employees who:

- a) manage a premises licensed to sell alcoholic beverages for on site consumption, or
- b) act as a bartender for selling or mixing alcoholic drinks which may include spirits, beer and/or wine for consumption on premises, or
- c) draw beer and/or wine from taps and/or spirits from dispensing devices at an establishment licensed to sell liquor for on premises consumption.

(2) A mixologist must be 21 years of age or older.

(3) A mixologist permit includes the authority to act as a server, under the class 13 permit.

(4) A mixologist permit is valid for five years from the completion of a Board certified alcohol server class.

(5) The holder of a class 12 mixologist permit must have available on premises for inspection by board employees or other peace officers the class 12 permit together with one piece of identification as specified in RCW 66.16.040 whenever they are employed in the sale of alcohol.

(6) The refusal or failure of any mixologist or server to make their permit available on the premises for immediate inspection by authorized board employees or peace officers is prima facie evidence of a violation of this section.

### NEW SECTION

**WAC 314-14-020 Class 13 permit - Server.** (1) "Server's Permit" refers to the Class 13 permit. Servers are people who:

- a) take orders for alcoholic beverages to be consumed on premise, and/or
- b) deliver such beverages to customers for consumption on premise, and/or
- c) may open and/or pour beer or wine into a customer's glass at the customer's table.

(2) A server must be 18 years of age or older. Any server who is 18, 19 or 20 years of age who successfully completes a class 12 mixologist class will be issued a Class 13 Server's Permit. Upon turning 21, the server may apply for an upgraded Class 12 mixologist permit as allowed in WAC 314-14-030. The expiration date of the permit will remain 5 years from the date of the class.

(3) Holders of a Class 13 Server's Permit who are 21 years of age or older may, upon the temporary absence of the Class 12 mixologist, perform the functions of a class 12 permit holder on a retail licensed premises until such time as a Class 12 mixologist can arrive to fulfill those duties, but in no event for more than 2 consecutive work days.

(4) A server's permit is valid for five years from the completion of a board certified alcohol server class.

(5) The holder of a class 13 servers permit must have available on premises for inspection by board employees or other peace officers the class 13 permit together with one piece of identification as specified in RCW 66.16.040 whenever they are employed in the service of alcohol.

(6) The refusal or failure of any mixologist or server to make their permit available on the premises for immediate inspection by authorized board employees or peace officers is prima facie evidence of a violation of this section.

### NEW SECTION

**WAC 314-14-030 Permit expiration—Lost, replacement and upgraded permits** (1) Every Class 12 and Class 13 permit shall expire on the first day of the month, five years following the month the mixologist or server successfully completed their alcohol server education course.

(2) To be eligible for renewal of any Class 12 or Class 13 permit, the mixologist or server must attend an alcohol server's education course given by a board authorized provider within sixty days of the expiration of their current permit.

(3) Lost permits will be cancelled and a replacement permit issued by the Liquor Control Board upon the mixologist or server submitting an affidavit of lost permit to the Board together with a fee to be set by the Board.

(4) Permit holders who have successfully completed a class 12 mixologist course, but were under 21 years of age at the time of the course and were issued a Class 13 Servers Permit may request their trainer upgrade their permit to a Class 12 Mixologist Permit upon reaching 21 years of age.

### NEW SECTION

**WAC 314-14-040 Temporary certification as a provider.** (1) Nationally recognized alcohol server training programs may submit their materials to the Board for temporary certification. Temporary certification may be issued by the Board for a period not to exceed six months.

(2) If permanent certification is not obtained during the six month temporary certification period, at the end of the temporary certification period, the provider will return to the board the original letter of Board certification and any Class 12 and/or Class 13 permit forms together with records of all permits issued during the temporary certification period.

(3) To obtain temporary certification, a provider applicant must submit a letter indicating a) in which states and/or countries their program is currently used, b) a copy of the lesson plan for the program, c) a copy of any audio/visual/printed materials used with the program, d) a copy of the examination and explanation of the examination procedure used.

(4) The Board or their designee will evaluate the program to see if it meets the minimum standards set by RCW 66.20.300 through 66.20.350. If the program meets the minimum statutory requirements and curriculum guidelines as set by the Board, the Board or their designee will send to the provider applicant a letter of temporary certification to be valid for a period not to exceed six months together with the appropriate permit forms.

(5) The Board or their designee may review and attend any provider classes at no charge to determine compliance with the program approved. If, in the opinion of the Board or their designee the provider does not comply with the lesson plan submitted and approved or any of the requirements of WAC 314-14, the temporary certification may be immediately revoked.

NEW SECTION

**WAC 314-14-050 Illegal possession of a permit.** Any person who falsifies, keeps or possesses a Class 12 Mixologist Permit or a Class 13 Servers Permit contrary to the provisions of this section and contrary to the intent of RCW 66.20.300 through 66.20.350 shall be guilty of a violation of this section.

NEW SECTION

**WAC 314-14-060 Training entity - Provider - Trainers.** (1) "Provider" refers to an individual, partnership, corporation, college, educational institute or other bona fide legal entity that the Board certifies to provide a Board approved alcohol server education course. The provider is a training entity.

(a) The provider will only contract with trainers which meet the standards set below.

(2) "Trainer" is an individual employed or authorized by a provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a class 12 or class 13 permit.

(a) Each trainer must have a minimum of two years of post-secondary education in the field of either training, or education, or law, or law enforcement, or substance abuse rehabilitation, or the hospitality industry or a combination of any of the above fields or equivalent years of experience.

(b) Each trainer must teach an alcohol server education program that has been approved by the Board.

(c) Authorized trainers of certified provider programs may order from the Board or their designee Class 12 and Class 13 Alcohol Server Training Permits to issue to students who successfully complete training. EXCEPT, Students between 18 through 20 years of age that successfully complete a mixologist course of instruction will be issued a Class 13 Servers Permit until such time as the student turns 21 years of age.

NEW SECTION

**WAC 314-14-070 Provider certification.** (1) A person or business entity that decides to become a certified provider for Alcohol Server Education must submit to the Board or their designee:

(a) a completed application form provided by the Board that specifies how the applicant will meet the definition of "provider" in WAC 314-14-060, and

(b) a copy of the lesson plan(s), audio and visual and printed materials provided as part of the alcohol server education course(s), and

(c) a copy of the examination(s) and explanation of the examination procedure necessary to pass the course, and

(d) identification of all trainers to be used in teaching the course. Identification should include whenever possible the name, date of birth, social security number, address and phone number and educational and employment background of trainers used for the course, and

(e) will inform the Board of any changes within 30 days of hiring, contracting with or termination of use of any trainers.

(2) If the applicant provider has a program or trainers who are not acceptable for certification, the Board or designee will notify the applicant provider of any deficiencies.

(3) If the provider, its program and its trainers meet Board standards and curriculum guidelines designated by the Board, the provider will receive a letter of certification of their program which will be valid for a period of 5 years; together with an order form for the applicable Class 12 and Class 13 permit forms.

(4) Upon notification of who the authorized trainers are for a provider's course, and when sufficient information is given to contact the trainer, the Board or their designee will issue a letter of authorization to the trainer to teach the relevant provider's course.

(5) The Board or their designee may attend any class provided by certified providers and their trainers at no charge to evaluate conformance with the program certified by the Board.

(6) No change(s) will be made to the basic program content or method of presentation which has been certified by the Board without the provider notifying the Board or their designee of such changes and obtaining prior approval of such changes.

NEW SECTION

**WAC 314-14-080 Provider and trainer records—Rights of inspection.** (1) The provider's authorized trainers will submit to the Board within 30 calendar days of any training class a readable copy of the Class 12 and/or Class 13 permit application form issued.

(2) Copies of the Class 12 and/or Class 13 permits issued by the provider's authorized trainers shall be kept at the trainers place of business and be available for inspection and copying by Board employee(s) for a period of five (5) years.

(3) The trainer will keep at their place of business, available for inspection and copying by Board employee(s) course presentation information which shall include the location, date and time of every class given together with the name of the trainer and the number and name of students that attended each class. These records will be kept for a period of five (5) years.

(4) Upon request by the Board, the provider and/or provider's authorized trainers will give advance notice of any classes scheduled.

NEW SECTION

**WAC 314-14-090 Alcohol server education provider course standards—Class 12 mixologist permit.** To be certified to issue a class 12 mixologist permit, the provider's course of instruction must include:

(1) a course of instruction of not less than three hours in length;

(2) a standard workbook that covers the specifics of Washington liquor laws as they relate to (a) recognizing and dealing with intoxicated persons, (b) how to check identification, (c) required signs in liquor licensed establishments and (d) meets the requirements of RCW 66.20.300 through 66.20.350;

(3) a written examination completed by the student attending which demonstrates the student is familiar with the liquor laws of Washington applicable to the mixing, serving, and liability associated with the alcohol beverage industry.

(4) The consumption of alcoholic beverages by any student or trainer during any alcohol server education course or break during the course is prohibited.

(5) At the beginning of each class, the trainer will give each student:

(a) An enrollment agreement that clearly states the obligations of the trainer and student, refund policies and procedures to terminate enrollment.

(b) A statement that says, "If you have questions, comments or complaints about the program, please call the Liquor Control Board" and includes the appropriate Board telephone numbers.

(c) A notice that a student must complete the course in order to take the exam.

#### NEW SECTION

**WAC 314-14-100 Alcohol server education provider course standards—Class 13 server permit.** To be certified to issue a class 13 server permit, the provider's course of instruction must include:

(1) a minimum one hour course of instruction that may include not less than 30 minutes of a video or audio visual presentation together with facilitation by the provider's authorized trainers or a sixty minute self teaching video;

(2) a standard workbook that covers the specifics of Washington liquor laws as they relate to (a) recognizing and dealing with intoxicated persons, (b) how to check identification, and (c) meets the requirements of RCW 66.20.300 through 66.20.350;

(3) a written examination completed by the student attending which demonstrates the student is familiar with the liquor laws of Washington applicable to the delivery and service of alcohol beverages.

(4) The consumption of alcoholic beverages by any student or trainer during any alcohol server education course or break during the course is prohibited.

(5) At the beginning of each class, the authorized trainer will give each student:

(a) An enrollment agreement that clearly states the obligations of the trainer and student, refund policies and procedures to terminate enrollment.

(b) A statement that says, "If you have questions, comments or complaints about the program, please call the Liquor Control Board" and includes the appropriate Board telephone numbers.

(c) A notice that a student must complete the course in order to take the exam.

#### NEW SECTION

**WAC 314-14-110 Sanctions against providers and trainers.** Except for providers with temporary certification, any provider or trainer that violates any of the provisions of RCW 66.20.300 through 66.20.350 or any of the requirements of WAC 314-14 will, (1) upon a first offense receive a notice of intended suspension/revocation of the Board's certification or authorization. The notice of intended

suspension/revocation will give the provider and/or trainer thirty-days to correct any violations.

If the problem is rectified no further action will be taken.

(2) If the problem is not rectified and/or a second violation by a provider or their trainer occurs, the Board will suspend its approval and certification of the provider and/or trainer for a period not to exceed six months. A monetary penalty of up to five hundred dollars (\$500) may be imposed in lieu of suspension. Prior to lifting the suspension or accepting a monetary penalty, the provider and/or trainer must correct the problem(s) which caused the suspension.

(3) The Board may increase sanctions based on successive violations within a two-year period. Numerous violations within the two-year period may indicate such a disregard for the law or failure to provide an acceptable Alcohol Server Education Program so as to warrant cancellation of the certification of either the provider and/or their authorized trainer.

(4) If the provider and/or trainer is charged with a violation of any of the provisions of RCW 66.20.300 through 66.20.350 or any of the requirements of WAC 314-14, the Board may cancel or suspend the approval and certification of the provider and/or trainer for a period of up to 5 years.

#### NEW SECTION

**WAC 314-14-120 Provider responsible for acts of trainers** The Board may hold a provider responsible for any act or omission of the provider's program personnel, authorized trainers or representatives that violates any law or administrative rule affecting provider privileges.

#### NEW SECTION

**WAC 314-14-130 Prohibited conduct** No provider or authorized trainer of a provider will:

(1) Make any material false or misleading statement to induce or prevent Board actions.

(2) Falsify, alter or otherwise tamper with Alcohol Server Training permits or records.

(3) Permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter.

(4) Permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or exam, including breaks and meals.

(5) Drink alcoholic beverages or be under the influence of intoxicants during the course presentation and exam, including breaks and meals.

(6) Prohibit or interfere with on-site observations by the Board or this staff, or fail to assist the Board or this staff in scheduling these observations.

#### NEW SECTION

**WAC 314-14-140 Provider and trainer advertising and promotion standards.** (1) Provider and trainer advertising related to the alcohol server education courses which result in the issuance of a class 12 or class 13 permit, must include:

(a) The provider's and/or trainer's telephone number and cancellation policy.

(b) The total amount of class time which includes instruction, exam and breaks.

(c) A statement that students must attend the entire class before taking the exam.

(2) Advertising will not suggest that the State of Washington, the Board, or any state agency endorses or recommends the provider's program to the exclusion of any other program.

(3) The provider or trainer will give the Board or its staff copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program upon request.

(4) A provider or trainer must have records available to support all claims or that representations the provider or trainer makes in his/her advertising.

#### NEW SECTION

**WAC 314-14-150 On premise liquor licensees must check identification of employees and verify their possession of an alcohol servers permit** (1) Except as noted in section (2) below, all liquor licensees who hold a license to sell liquor for on premise consumption must, within sixty days of employment of any person in the sale or service of liquor, verify that the employee has either a valid, not expired Class 12 Mixologist permit or a valid, not expired Class 13 Servers permit as required by RCW 66.20.300 through 66.20.350 in the same name and with the same identifying characteristics as indicated on the employee's identification as specified in RCW 66.16.040.

(2) Employees of retail licensed businesses licensed under RCW 66.24.320 and 66.24.340 are exempt from alcohol service training requirements when the establishments PRIMARY business is the sale of grocery products and the sale of beer and wine for on premises consumption is incidental to the primary business and constitutes 45 per cent or less of the business activity.

#### NEW SECTION

**WAC 314-14-160 Board may suspend permits** Notwithstanding any criminal actions taken, the Board may issue administrative violation notices to any holder of a class 12 or class 13 permit for violation of Title 66, RCW or WAC 314. Class 12 or class 13 permits may be suspended or revoked following the operating procedures set forth in WAC 10-08. As allowed by the Board, a monetary penalty may be imposed in lieu of a suspension.

**WSR 96-03-084**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Wildlife)

[Order 96-07—Filed January 18, 1996, 11:39 a.m.]

Date of Adoption: December 9, 1995.

Purpose: To adopt WAC 232-12-828 Hunting of game birds and animals by persons of disability.

Statutory Authority for Adoption: RCW 77.32.237.

Adopted under notice filed as WSR 95-22-112 on November 1, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 12, 1996

Mitchell S. Johnson, Chairman  
Fish and Wildlife Commission

#### NEW SECTION

**WAC 232-12-828 Hunting of game birds and animals by persons of disability.** (1) Definitions:

(a) "Designated hunter companion" means a licensed hunter who accompanies a disabled hunter and assists the disabled hunter in the taking of game birds and game animals.

(b) "Disabled hunter" means a person of disability who possesses a disabled hunter permit issued by the department. A disabled hunter must have all required licenses, tags, permits, and stamps before hunting.

(c) "Disabled hunter permit" means a permit issued by the department to any person of disability who applies to the department and presents such evidence as the director may require showing that the applicant is a person of disability. Upon issuance of a disabled hunter permit, the department will also issue a designated hunter companion identification card and a disabled hunter vehicle identification placard.

(d) "Person of disability" means:

(i) A permanently disabled person who is not ambulatory over natural terrain without a prosthesis or assistive device; or

(ii) A permanently disabled person who is unable to hold or shoot a firearm or other legal hunting device; or

(iii) A person who is totally blind or visually impaired.

This definition includes, but is not limited to, persons with upper or lower extremity impairments who have lost the use of one or both upper or lower extremities, or who have a significant limitation in the use of upper or lower extremities, or who have a diagnosed disease or disorder which substantially impairs or interferes with mobility or the use of upper extremities.

(e) "Visually impaired" means central visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than twenty degrees.

(2) The designated hunter companion, when accompanied by the disabled hunter, may assist the disabled hunter



in shooting, tagging and retrieving game birds or game animals, or may shoot, tag and retrieve game birds or game animals on behalf of the disabled hunter. The disabled hunter or the designated hunter companion must immediately cut, notch, and affix the disabled hunter's tag to the carcass of the game bird or game animal.

(3) It is unlawful for a designated hunter companion to assist a disabled hunter unless the designated hunter companion is accompanied by the disabled hunter, except the designated hunter companion may leave the disabled hunter to retrieve game birds or game animals wounded or killed by either the disabled hunter or the designated hunter companion.

(4) It is unlawful for a designated hunter companion to assist a disabled hunter unless the designated hunter companion has the designated hunter companion identification card on his or her person.

(5) It is unlawful for a disabled hunter to shoot from a motor vehicle, nonhighway vehicle or snowmobile unless the vehicle is stopped, the motor is turned off and the vehicle is not on or beside the maintained portion of a public highway. A disabled hunter vehicle identification placard must be displayed.

(6) It is unlawful for any person to possess a loaded firearm in a moving vehicle or to shoot a firearm or bow and arrow from, across, or along the maintained portion of a public highway.

(7) Game birds or game animals killed, tagged or retrieved by a designated hunter companion on behalf of a disabled hunter become part of the disabled hunter's bag or possession limit, and do not count against the designated hunter companion's bag or possession limit.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-12-829      Hunting of game animals by persons of disability.

**WSR 96-03-100  
PERMANENT RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS**  
[Filed January 19, 1996, 4:48 p.m.]

Date of Adoption: January 11, 1996.

Purpose: To adopt new tables for calculating survivor benefit reductions.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-02-097; and amending WAC 415-104-108, 415-112-040, and 415-108-340.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 95-24-080 on December 4, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
January 17, 1996  
Sheryl Wilson  
Director

**AMENDATORY SECTION** (Amending WSR 91-19-063, filed 9/16/91, effective 10/17/91)

**WAC 415-104-108 Actuarial tables, schedules, and factors.** This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems (~~pursuant to the authority granted by RCW 41.50.050 and 41.26.060~~) for calculating optional retirement allowances of members of the Washington state law enforcement officers' and fire fighters' retirement system (~~as administered by the director~~). These tables, schedules, and factors were adopted by the director upon the recommendation of (~~and in light of the findings of the state actuarial~~) the state actuary based upon the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of the law enforcement officers' and fire fighters' retirement system.

(1) Except as provided in subsection (2) of this section, the tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring (~~during the period from October 1, 1990~~) on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before (~~October 1, 1990~~) January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement.

(2) The early retirement factors govern the retirement allowances of members retiring on or after January 1, 1993.

(3) Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the (~~adoption~~) effective date of such new tables, schedules, and factors.

LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN I		LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS RETIREMENT SYSTEM PLAN II	
Monthly Benefit per \$1.00 of Accumulation		Monthly Benefit per \$1.00 of Accumulation	
20	.0025142	20	.0039808
21	.0025304	21	.0039997
22	.0025472	22	.0040196
23	.0025647	23	.0040405
24	.0025828	24	.0040624
25	.0026017	25	.0040855

PERMANENT

26	.0026214	26	.0041098
27	.0026418	27	.0041353
28	.0026632	28	.0041622
29	.0026854	29	.0041905
30	.0027086	30	.0042204
31	.0027327	31	.0042518
32	.0027579	32	.0042850
33	.0027842	33	.0043200
34	.0028117	34	.0043569
35	.0028404	35	.0043958
36	.0028704	36	.0044370
37	.0029018	37	.0044805
38	.0029346	38	.0045266
39	.0029690	39	.0045752
40	.0030050	40	.0046267
41	.0030427	41	.0046810
42	.0030823	42	.0047384
43	.0031237	43	.0047988
44	.0031672	44	.0048626
45	.0032128	45	.0049298
46	.0032607	46	.0050007
47	.0033111	47	.0050753
48	.0033640	48	.0051539
49	.0034197	49	.0052369
50	.0034785	50	.0053245
51	.0035404	51	.0054172
52	.0036059	52	.0055155
53	.0036751	53	.0056199
54	.0037485	54	.0057310
55	.0038265	55	.0058496
56	.0039096	56	.0059764
57	.0039981	57	.0061122
58	.0040928	58	.0062578
59	.0041941	59	.0064139
60	.0043026	60	.0065811
61	.0044195	61	.0067600
62	.0045451	62	.0069511
63	.0046805	63	.0071548
64	.0048266	64	.0073714
65	.0049847	65	.0076011
66	.0051560	66	.0078441
67	.0053424	67	.0081009
68	.0055445	68	.0083721
69	.0057645	69	.0086591
70	.0060046	70	.0089634
71	.0062678	71	.0092866
72	.0065554	72	.0096299
73	.0068706	73	.0099940
74	.0072168	74	.0103786
75	.0075947	75	.0107825
76	.0080069	76	.0112040
77	.0084560	77	.0116408
78	.0089449	78	.0120905
79	.0094696	79	.0125511
80	.0100369	80	.0130204
81	.0106372	81	.0134944
82	.0112701	82	.0139758
83	.0119271	83	.0144609
84	.0126119	84	.0149489
85	.0133170	85	.0154388
86	.0140467	86	.0159282
87	.0147922	87	<del>(.0164053)</del>
			<u>.0164153</u>
88	.0155623	88	.0168983
89	.0163745	89	.0173754
90	.0172295	90	.0178441
91	.0181323	91	.0183008
92	.0190934	92	.0187436
93	.0201303	93	.0191730
94	.0212247	94	.0195820
95	.0223693	95	.0199697
96	.0236226	96	.0203443
97	.0250062	97	.0207038
98	.0265426	98	.0210462
99	.0282645	99	.0213706

LAW ENFORCEMENT OFFICERS  
AND FIRE FIGHTERS  
RETIREMENT SYSTEM  
PLAN II  
Early Retirement Factors  
by Year and Month

<del>(0</del>	0	1.0000
1	1	.9918
2	2	.9836
3	3	.9754
4	4	.9672
5	5	.9590
6	6	.9508
7	7	.9426
8	8	.9344
9	9	.9262
10	10	.9180
11	11	.9098
<del>1</del>	0	.9016
1	1	.8943
2	2	.8870
3	3	.8797
4	4	.8724
5	5	.8652
6	6	.8579
7	7	.8506
8	8	.8433
9	9	.8360
10	10	.8287
11	11	.8215
<del>2</del>	0	.8142
1	1	.8077
2	2	.8012
3	3	.7947
4	4	.7883
5	5	.7818
6	6	.7753
7	7	.7688
8	8	.7623
9	9	.7558
10	10	.7494
11	11	.7429
<del>3</del>	0	.7364
1	1	.7306
2	2	.7248
3	3	.7191
4	4	.7133
5	5	.7075
6	6	.7017
7	7	.6959
8	8	.6902
9	9	.6844
10	10	.6786
11	11	.6728
<del>4</del>	0	.6670
1	1	.6619
2	2	.6567
3	3	.6515
4	4	.6464
5	5	.6412
6	6	.6360
7	7	.6309
8	8	.6257
9	9	.6205
10	10	.6153
11	11	.6102
<del>5</del>	0	.6050
1	1	.6004
2	2	.5958
3	3	.5911
4	4	.5865
5	5	.5819
6	6	.5772

PERMANENT

7	5726
8	5680
9	5624
10	5587
11	5541
6 0	5495
1	5453
2	5412
3	5370
4	5329
5	5287
6	5246
7	5204
8	5163
9	5121
10	5080
11	5038
7 0	4996
1	4959
2	4922
3	4884
4	4847
5	4810
6	4773
7	4735
8	4698
9	4661
10	4623
11	4586
8 0	4549
1	4515
2	4481
3	4448
4	4414
5	4381
6	4347
7	4313
8	4280
9	4246
10	4213
11	4179
9 0	4145
1	4115
2	4085
3	4054
4	4024
5	3994
6	3964
7	3933
8	3903
9	3873
10	3842
11	3812
10 0	3782
1	3754
2	3727
3	3700
4	3672
5	3645
6	3618
7	3590
8	3563
9	3535
10	3508
11	3481
11 0	3453
1	3429
2	3404
3	3379
4	3354
5	3330
6	3305
7	3280
8	3255
9	3231
10	3206

11	3181
12 0	3156
1	3134
2	3112
3	3089
4	3067
5	3044
6	3022
7	2999
8	2977
9	2955
10	2932
11	2910
13 0	2887
1	2867
2	2847
3	2826
4	2806
5	2786
6	2765
7	2745
8	2725
9	2705
10	2684
11	2664
14 0	2644
1	2625
2	2607
3	2588
4	2570
5	2551
6	2533
7	2514
8	2496
9	2478
10	2459
11	2441
15 0	2422
1	2405
2	2389
3	2372
4	2355
5	2338
6	2322
7	2305
8	2288
9	2271
10	2254
11	2238
16 0	2221
1	2206
2	2190
3	2175
4	2160
5	2145
6	2129
7	2114
8	2099
9	2084
10	2068
11	2053
17 0	2038
1	2024
2	2010
3	1996
4	1982
5	1968
6	1955
7	1941
8	1927
9	1913
10	1899
11	1885
18 0	1871
1	1858
2	1846

PERMANENT

PERMANENT

3	.1833	7	.1083
4	.1820	8	.1075
5	.1808	9	.1068
6	.1795	10	.1061
7	.1782	11	.1053
8	.1770	25 0	.1046
9	.1757	1	.1039
10	.1744	2	.1032
11	.1732	3	.1025
19 0	.1719	4	.1019
1	.1708	5	.1012
2	.1696	6	.1005
3	.1684	7	.0998
4	.1673	8	.0991
5	.1661	9	.0985
6	.1650	10	.0978
7	.1638	11	.0971
8	.1627	26 0	.0964
9	.1615	1	.0958
10	.1604	2	.0952
11	.1592	3	.0946
20 0	.1580	4	.0939
1	.1570	5	.0933
2	.1559	6	.0927
3	.1549	7	.0921
4	.1538	8	.0914
5	.1528	9	.0908
6	.1517	10	.0902
7	.1506	11	.0896
8	.1496	27 0	.0889
9	.1485	1	.0884
10	.1475	2	.0878
11	.1464	3	.0872
21 0	.1454	4	.0867
1	.1444	5	.0861
2	.1434	6	.0855
3	.1425	7	.0849
4	.1415	8	.0844
5	.1405	9	.0838
6	.1396	10	.0832
7	.1386	11	.0826
8	.1376	28 0	.0821
9	.1367	1	.0815
10	.1357	2	.0810
11	.1347	3	.0805
22 0	.1338	4	.0800
1	.1329	5	.0794
2	.1320	6	.0789
3	.1311	7	.0784
4	.1302	8	.0779
5	.1294	9	.0773
6	.1285	10	.0768
7	.1276	11	.0763
8	.1267	29 0	.0758
9	.1258	1	.0753
10	.1249	2	.0748
11	.1241	3	.0743
23 0	.1232	4	.0738
1	.1224	5	.0733
2	.1216	6	.0729
3	.1208	7	.0724
4	.1199	8	.0719
5	.1191	9	.0714
6	.1183	10	.0709
7	.1175	11	.0704
8	.1167	30 0	.0700
9	.1159	1	.0695
10	.1151	2	.0691
11	.1143	3	.0686
24 0	.1135	4	.0682
1	.1127	5	.0677
2	.1120	6	.0673
3	.1113	7	.0668
4	.1105	8	.0664
5	.1098	9	.0660
6	.1090	10	.0655

11	_____	.0651
31 0	_____	.0646
1	_____	.0642
2	_____	.0638
3	_____	.0634
4	_____	.0630
5	_____	.0626
6	_____	.0622
7	_____	.0618
8	_____	.0613
9	_____	.0609
10	_____	.0605
11	_____	.0601
32 0	_____	.0597
1	_____	.0593
2	_____	.0590
3	_____	.0586
4	_____	.0582
5	_____	.0578
6	_____	.0575
7	_____	.0571
8	_____	.0567
9	_____	.0563
10	_____	.0559
11	_____	.0556
33 0	_____	.0552
1	_____	.0548
2	_____	.0545
3	_____	.0541
4	_____	.0538
5	_____	.0535
6	_____	.0531
7	_____	.0528
8	_____	.0524
9	_____	.0521
10	_____	.0517
11	_____	.0514
34 0	_____	.0510
1	_____	.0507
2	_____	.0504
3	_____	.0501
4	_____	.0497
5	_____	.0494
6	_____	.0491
7	_____	.0488
8	_____	.0485
9	_____	.0481
10	_____	.0478
11	_____	.0475
35 0	_____	.0472
1	_____	.0469
2	_____	.0466
3	_____	.0463
4	_____	.0460
5	_____	.0457
6	_____	.0454
7	_____	.0451
8	_____	.0448
9	_____	.0445
10	_____	.0442
11	_____	.0439
36 0	_____	.0437
1	_____	.0434
2	_____	.0431
3	_____	.0428
4	_____	.0426
5	_____	.0423
6	_____	.0420
7	_____	.0417
8	_____	.0415
9	_____	.0412
10	_____	.0409
11	_____	.0407
37 0	_____	.0404
1	_____	.0401
2	_____	.0399

3	_____	.0396
4	_____	.0394
5	_____	.0391
6	_____	.0389
7	_____	.0386
8	_____	.0384
9	_____	.0381
10	_____	.0379
11	_____	.0376
38 0	_____	.0374
1	_____	.0372
2	_____	.0369
3	_____	.0367
4	_____	.0365
5	_____	.0363
6	_____	.0361
7	_____	.0359
8	_____	.0356
9	_____	.0354
10	_____	.0352
11	_____	.0350
39 0	_____	.0348
1	_____	.0346
2	_____	.0344
3	_____	.0342
4	_____	.0340
5	_____	.0338
6	_____	.0336
7	_____	.0334
8	_____	.0332
9	_____	.0330
10	_____	.0327
11	_____	.0325
40 or more	_____	.0323))

PERMANENT

PERMANENT

0	0	1.000	5	0	.6177	10	0	.3921	15	0	.2541
	1	.9921		1	.6131		1	.3893		1	.2524
	2	.9843		2	.6085		2	.3866		2	.2507
	3	.9764		3	.6040		3	.3838		3	.2489
	4	.9686		4	.5994		4	.3811		4	.2472
	5	.9607		5	.5949		5	.3783		5	.2455
	6	.9529		6	.5903		6	.3755		6	.2438
	7	.9450		7	.5857		7	.3728		7	.2420
	8	.9372		8	.5812		8	.3700		8	.2403
	9	.9293		9	.5766		9	.3673		9	.2386
	10	.9215		10	.5720		10	.3645		10	.2369
	11	.9136		11	.5675		11	.3617		11	.2352
1	0	.9058	6	0	.5629	11	0	.3590	16	0	.2334
	1	.8988		1	.5588		1	.3565		1	.2319
	2	.8918		2	.5547		2	.3540		2	.2303
	3	.8847		3	.5506		3	.3515		3	.2287
	4	.8777		4	.5465		4	.3490		4	.2272
	5	.8707		5	.5423		5	.3465		5	.2256
	6	.8637		6	.5382		6	.3439		6	.2240
	7	.8567		7	.5341		7	.3414		7	.2225
	8	.8496		8	.5300		8	.3389		8	.2209
	9	.8426		9	.5259		9	.3364		9	.2193
	10	.8356		10	.5218		10	.3339		10	.2177
	11	.8286		11	.5177		11	.3314		11	.2162
2	0	.8216	7	0	.5135	12	0	.3289	17	0	.2146
	1	.8153		1	.5098		1	.3266		1	.2132
	2	.8090		2	.5061		2	.3244		2	.2117
	3	.8027		3	.5024		3	.3221		3	.2103
	4	.7964		4	.4987		4	.3198		4	.2089
	5	.7902		5	.4950		5	.3175		5	.2074
	6	.7839		6	.4912		6	.3153		6	.2060
	7	.7776		7	.4875		7	.3130		7	.2046
	8	.7713		8	.4838		8	.3107		8	.2031
	9	.7650		9	.4801		9	.3084		9	.2017
	10	.7587		10	.4764		10	.3061		10	.2003
	11	.7524		11	.4727		11	.3039		11	.1988
3	0	.7462	8	0	.4689	13	0	.3016	18	0	.1974
	1	.7405		1	.4656		1	.2995		1	.1961
	2	.7349		2	.4622		2	.2975		2	.1948
	3	.7292		3	.4589		3	.2954		3	.1935
	4	.7236		4	.4555		4	.2933		4	.1922
	5	.7180		5	.4521		5	.2912		5	.1908
	6	.7123		6	.4488		6	.2892		6	.1895
	7	.7067		7	.4454		7	.2871		7	.1882
	8	.7011		8	.4421		8	.2850		8	.1869
	9	.6954		9	.4387		9	.2830		9	.1856
	10	.6898		10	.4353		10	.2809		10	.1843
	11	.6841		11	.4320		11	.2788		11	.1830
4	0	.6785	9	0	.4286	14	0	.2767	19	0	.1817
	1	.6734		1	.4256		1	.2748		1	.1805
	2	.6684		2	.4225		2	.2730		2	.1793
	3	.6633		3	.4195		3	.2711		3	.1781
	4	.6582		4	.4164		4	.2692		4	.1769
	5	.6532		5	.4134		5	.2673		5	.1757
	6	.6481		6	.4104		6	.2654		6	.1745
	7	.6430		7	.4073		7	.2635		7	.1733
	8	.6379		8	.4043		8	.2616		8	.1721
	9	.6329		9	.4012		9	.2598		9	.1709
	10	.6278		10	.3982		10	.2579		10	.1697
	11	.6227		11	.3951		11	.2560		11	.1685
20	0	.1673	25	0	.1115	30	0	.0749	35	0	.0508
	1	.1662		1	.1107		1	.0745		1	.0505
	2	.1651		2	.1100		2	.0740		2	.0502
	3	.1640		3	.1093		3	.0735		3	.0499
	4	.1629		4	.1086		4	.0731		4	.0496
	5	.1618		5	.1079		5	.0726		5	.0493
	6	.1607		6	.1072		6	.0721		6	.0490
	7	.1596		7	.1065		7	.0716		7	.0487
	8	.1585		8	.1057		8	.0712		8	.0484
	9	.1574		9	.1050		9	.0707		9	.0481
	10	.1563		10	.1043		10	.0702		10	.0478
	11	.1552		11	.1036		11	.0698		11	.0475
21	0	.1541	26	0	.1029	31	0	.0693	36	0	.0472
	1	.1531		1	.1022		1	.0689		1	.0469
	2	.1521		2	.1016		2	.0684		2	.0467
	3	.1511		3	.1009		3	.0680		3	.0464

	4	.1501		4	.1003		4	.0676		4	.0461
	5	.1491		5	.0996		5	.0671		5	.0458
	6	.1481		6	.0989		6	.0667		6	.0456
	7	.1470		7	.0983		7	.0663		7	.0453
	8	.1460		8	.0976		8	.0658		8	.0450
	9	.1450		9	.0970		9	.0654		9	.0447
	10	.1440		10	.0963		10	.0649		10	.0445
	11	.1430		11	.0957		11	.0645		11	.0442
<b>22</b>	0	.1420	<b>27</b>	0	.0950	<b>32</b>	0	.0641	<b>37</b>	0	.0439
	1	.1411		1	.0944		1	.0637		1	.0437
	2	.1402		2	.0938		2	.0633		2	.0434
	3	.1392		3	.0932		3	.0629		3	.0432
	4	.1383		4	.0926		4	.0625		4	.0429
	5	.1374		5	.0920		5	.0621		5	.0426
	6	.1365		6	.0914		6	.0617		6	.0424
	7	.1356		7	.0908		7	.0613		7	.0421
	8	.1346		8	.0902		8	.0609		8	.0419
	9	.1337		9	.0896		9	.0605		9	.0416
	10	.1328		10	.0890		10	.0601		10	.0414
	11	.1319		11	.0884		11	.0597		11	.0411
<b>23</b>	0	.1309	<b>28</b>	0	.0878	<b>33</b>	0	.0593	<b>38</b>	0	.0409
	1	.1301		1	.0872		1	.0589		1	.0406
	2	.1292		2	.0866		2	.0585		2	.0404
	3	.1284		3	.0861		3	.0582		3	.0401
	4	.1276		4	.0855		4	.0578		4	.0399
	5	.1267		5	.0850		5	.0574		5	.0397
	6	.1259		6	.0844		6	.0571		6	.0394
	7	.1250		7	.0839		7	.0567		7	.0392
	8	.1242		8	.0833		8	.0563		8	.0390
	9	.1233		9	.0828		9	.0560		9	.0387
	10	.1225		10	.0822		10	.0556		10	.0385
	11	.1216		11	.0816		11	.0552		11	.0382
<b>24</b>	0	.1208	<b>29</b>	0	.0811	<b>34</b>	0	.0548	<b>39</b>	0	.0380
	1	.1200		1	.0806		1	.0545		1	.0378
	2	.1192		2	.0801		2	.0542		2	.0376
	3	.1184		3	.0796		3	.0538		3	.0373
	4	.1177		4	.0790		4	.0535		4	.0371
	5	.1169		5	.0785		5	.0531		5	.0369
	6	.1161		6	.0780		6	.0528		6	.0367
	7	.1153		7	.0775		7	.0525		7	.0365
	8	.1146		8	.0770		8	.0521		8	.0362
	9	.1138		9	.0765		9	.0518		9	.0360
	10	.1130		10	.0760		10	.0514		10	.0358
	11	.1122		11	.0755		11	.0511		11	.0356

PERMANENT

LAW ENFORCEMENT OFFICERS  
AND FIRE FIGHTERS RETIREMENT SYSTEM  
PLAN II

Age  
(Option II      Difference      Option III)

Member Older

0.800	0	0.887
0.790	1	0.883
0.778	2	0.877
0.768	3	0.871
0.759	4	0.865
0.750	5	0.859
0.742	6	0.854
0.734	7	0.849
0.726	8	0.843
0.718	9	0.838
0.711	10	0.833
0.704	11	0.828
0.697	12	0.824
0.690	13	0.818
0.681	14	0.812
0.672	15	0.805
0.663	16	0.799
0.656	17	0.794
0.650	18	0.790
0.644	19	0.786
0.639	20	0.782

0.634	21	0.778
0.630	22	0.775
0.625	23	0.771
0.621	24	0.768
0.617	25	0.765
0.613	26	0.762
0.609	27	0.759
0.606	28	0.756
0.602	29	0.754
0.599	30	0.751
0.596	31	0.749
0.593	32	0.746
0.590	33	0.744
0.587	34	0.742
0.585	35	0.740
0.582	36	0.738
0.580	37	0.736
0.578	38	0.734
0.575	39	0.732
0.573	40	0.731

Beneficiary Older

0.956	20 or more	0.980
0.951	19	0.978
0.946	18	0.975
0.940	17	0.972
0.934	16	0.968
0.927	15	0.965
0.920	14	0.961
0.913	13	0.957

0.905	12	0.953
0.897	11	0.948
0.889	10	0.944
0.881	09	0.939
0.872	08	0.933
0.863	07	0.927
0.854	06	0.920
0.846	05	0.914
0.837	04	0.908
0.828	03	0.902
0.819	02	0.897
0.810	01	0.892))

33	0.586	0.680	0.739
34	0.583	0.677	0.737
35	0.581	0.675	0.735
36	0.578	0.673	0.733
37	0.576	0.671	0.731
38	0.574	0.669	0.729
39	0.571	0.666	0.727
40	0.569	0.664	0.725

AGE DIFFERENCE = MEMBER'S AGE MINUS BENEFICIARY AGE

\* For converting the Normal Form (Option I) to Option II or III.

LEOFF II Survivor Option Factors

Member Younger

<u>Age Difference</u>	<u>OPTION II (100%)</u>	<u>OPTION IV (66 2/3%)</u>	<u>OPTION III (50%)</u>
-20	0.928	0.951	0.963
-19	0.923	0.947	0.960
-18	0.918	0.944	0.957
-17	0.912	0.940	0.954
-16	0.906	0.935	0.951
-15	0.899	0.930	0.947
-14	0.892	0.926	0.943
-13	0.885	0.921	0.939
-12	0.877	0.915	0.935
-11	0.869	0.909	0.930
-10	0.861	0.903	0.926
-9	0.854	0.898	0.922
-8	0.846	0.892	0.917
-7	0.838	0.886	0.912
-6	0.830	0.880	0.907
-5	0.823	0.875	0.903
-4	0.814	0.868	0.898
-3	0.806	0.862	0.893
-2	0.798	0.856	0.888
-1	0.790	0.850	0.883

Member Older

<u>Age Difference</u>	<u>OPTION II (100%)</u>	<u>OPTION IV (66 2/3%)</u>	<u>OPTION III (50%)</u>
0	0.780	0.842	0.877
1	0.771	0.835	0.871
2	0.760	0.827	0.864
3	0.751	0.820	0.858
4	0.743	0.813	0.853
5	0.735	0.807	0.848
6	0.728	0.801	0.843
7	0.721	0.795	0.838
8	0.714	0.789	0.833
9	0.706	0.783	0.828
10	0.700	0.778	0.824
11	0.694	0.773	0.820
12	0.687	0.768	0.815
13	0.681	0.762	0.811
14	0.673	0.755	0.805
15	0.664	0.748	0.799
16	0.656	0.741	0.793
17	0.650	0.736	0.788
18	0.644	0.731	0.784
19	0.639	0.726	0.780
20	0.634	0.722	0.776
21	0.629	0.718	0.773
22	0.625	0.715	0.770
23	0.620	0.710	0.766
24	0.616	0.707	0.763
25	0.612	0.703	0.760
26	0.608	0.700	0.757
27	0.604	0.696	0.754
28	0.601	0.694	0.751
29	0.598	0.690	0.748
30	0.595	0.688	0.746
31	0.592	0.685	0.744
32	0.589	0.682	0.741

AMENDATORY SECTION (Amending WSR 91-02-018, filed 12/21/90, effective 1/21/91)

**WAC 415-108-340 Actuarial tables, schedules, and factors.** This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems (~~pursuant to the authority granted by RCW 41.50.050, 41.40.020 and 41.40.022~~) for calculating optional retirement allowances of members of the Washington state public employees' retirement system (~~as administered by the director~~). These tables, schedules, and factors were adopted by the director upon the recommendation of (~~and in light of the findings of the state actuary~~) the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of public employees' retirement system. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from (~~October 1, 1990~~) January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances calculated at the time of retirement of members retiring before (~~October 1, 1990~~) January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect when each member retires. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances calculated at the time of retirement only of members retiring after the adoption of such new tables, schedules, and factors.

**PUBLIC EMPLOYEES RETIREMENT SYSTEM  
PLAN I**

**Early Retirement Factors  
by Year and Month**

0	0	1.0000
	1	.9915
	2	.9830
	3	.9746
	4	.9661
	5	.9576
	6	.9491
	7	.9407
	8	.9322
	9	.9237
	10	.9152
	11	.9068
1	0	.8983
	1	.8908
	2	.8834
	3	.8759
	4	.8685
	5	.8610
	6	.8536
	7	.8461
	8	.8387
	9	.8312

PERMANENT



	10	.8238		2	.4428
	11	.8163		3	.4395
2	0	.8089		4	.4362
	1	.8023		5	.4329
	2	.7957		6	.4296
	3	.7892		7	.4263
	4	.7826		8	.4230
	5	.7760		9	.4197
	6	.7694		10	.4164
	7	.7629		11	.4131
	8	.7563		9	0
	9	.7497		1	.4068
	10	.7431		2	.4039
	11	.7366		3	.4009
3	0	.7300		4	.3979
	1	.7242		5	.3950
	2	.7183		6	.3920
	3	.7125		7	.3890
	4	.7067		8	.3860
	5	.7009		9	.3831
	6	.6951		10	.3801
	7	.6892		11	.3771
	8	.6834		10	0
	9	.6776		1	.3742
	10	.6718		2	.3715
	11	.6660		3	.3688
4	0	.6601		4	.3661
	1	.6550		5	.3635
	2	.6498		6	.3608
	3	.6446		7	.3581
	4	.6395		8	.3554
	5	.6343		9	.3528
	6	.6291		10	.3501
	7	.6240		11	.3474
	8	.6188		11	0
	9	.6136		1	<del>(.3440)</del>
	10	.6085		2	.3420
	11	.6033		3	.3396
5	0	.5981		4	.3372
	1	.5935		5	.3348
	2	.5889		6	.3324
	3	.5843		7	.3300
	4	.5797		8	.3275
	5	.5751		9	.3251
	6	.5705		10	.3227
	7	.5659		11	.3203
	8	.5613		12	.3179
	9	.5567		0	.3154
	10	.5521		1	.3130
	11	.5475		2	.3108
6	0	.5429		3	.3087
	1	.5388		4	.3065
	2	.5347		5	.3043
	3	.5306		6	.3021
	4	.5265		7	.2999
	5	.5224		8	.2977
	6	.5182		9	.2955
	7	.5141		10	.2933
	8	.5100		11	.2912
	9	.5059		12	.2890
	10	.5018		13	0
	11	.4977		1	.2868
7	0	.4936		2	.2848
	1	.4899		3	.2828
	2	.4862		4	.2808
	3	.4825		5	.2789
	4	.4789		6	.2769
	5	.4752		7	.2749
	6	.4715		8	.2729
	7	.4678		9	.2709
	8	.4642		10	.2689
	9	.4605		11	.2670
	10	.4568		14	.2650
	11	.4531		0	.2630
8	0	.4494		1	.2612
	1	.4461		2	.2594
				3	.2576
				4	.2558

PERMANENT

PERMANENT

	5	.2540		8	.1509
	6	.2522		9	.1498
	7	.2504		10	.1488
	8	.2486		11	.1478
	9	.2468		21 0	.1467
	10	.2450		1	.1458
	11	.2432		2	.1448
15	0	.2414		3	.1439
	1	.2398		4	.1429
	2	.2381		5	.1420
	3	.2365		6	.1410
	4	.2348		7	.1401
	5	.2332		8	.1391
	6	.2316		9	.1382
	7	.2299		10	.1372
	8	.2283		11	.1363
	9	.2267		22 0	.1353
	10	.2250		1	.1345
	11	.2234		2	.1336
16	0	.2218		3	.1327
	1	.2203		4	.1319
	2	.2188		5	.1310
	3	.2173		6	.1301
	4	.2158		7	.1293
	5	.2143		8	.1284
	6	.2128		9	.1275
	7	.2113		10	.1267
	8	.2098		11	.1258
	9	.2084		23 0	.1249
	10	.2069		1	.1241
	11	.2054		2	.1233
17	0	.2039		3	.1225
	1	.2025		4	.1217
	2	.2012		5	.1209
	3	.1998		6	.1201
	4	.1985		7	.1193
	5	.1971		8	.1185
	6	.1957		9	.1177
	7	.1944		10	.1169
	8	.1930		11	.1161
	9	.1917		24 0	.1153
	10	.1903		1	.1146
	11	.1890		2	.1139
18	0	.1876		3	.1132
	1	.1864		4	.1124
	2	.1851		5	.1117
	3	.1839		6	.1110
	4	.1826		7	.1102
	5	.1814		8	.1095
	6	.1802		9	.1088
	7	.1789		10	.1080
	8	.1777		11	.1073
	9	.1764		25 0	.1066
	10	.1752		1	.1059
	11	.1740		2	.1052
19	0	.1727		3	.1046
	1	<del>(.1726)</del>		4	.1039
		.1716		5	.1032
	2	.1705		6	.1025
	3	.1693		7	.1019
	4	.1682		8	.1012
	5	.1671		9	.1005
	6	.1659		10	.0998
	7	.1648		11	.0992
	8	.1637		26 0	.0985
	9	.1625		1	.0979
	10	.1614		2	.0973
	11	.1603		3	.0966
20	0	.1591		4	.0960
	1	.1581		5	.0954
	2	.1571		6	.0948
	3	.1560		7	.0942
	4	.1550		8	.0936
	5	.1540		9	.0929
	6	.1529		10	.0923
	7	.1519		11	.0917

27	0	.0911	4	.0559	
	1	.0905	5	.0556	
	2	.0899	6	.0552	
	3	.0894	7	.0549	
	4	.0888	8	.0545	
	5	.0882	9	.0542	
	6	.0877	10	.0538	
	7	.0871	11	.0535	
	8	.0865	34	0	.0531
	9	.0860	1	.0528	
	10	.0854	2	.0525	
	11	.0848	3	.0522	
28	0	.0842	4	.0518	
	1	.0837	5	.0515	
	2	.0832	6	.0512	
	3	.0827	7	.0509	
	4	.0822	8	.0506	
	5	.0816	9	.0502	
	6	.0811	10	.0499	
	7	.0806	11	.0496	
	8	.0801	35	or more	.0493
	9	.0795			
	10	.0790			
	11	.0785			
29	0	.0780			
	1	.0775			
	2	.0770			
	3	.0765			
	4	.0760			
	5	.0755			
	6	.0751			
	7	.0746			
	8	.0741			
	9	.0736			
	10	.0731			
	11	.0726			
30	0	.0722			
	1	.0717			
	2	.0713			
	3	.0708			
	4	.0704			
	5	.0699			
	6	.0695			
	7	.0690			
	8	.0686			
	9	.0682			
	10	.0677			
	11	.0673			
31	0	.0668			
	1	.0664			
	2	.0660			
	3	.0656			
	4	.0652			
	5	.0648			
	6	.0644			
	7	.0639			
	8	.0635			
	9	.0631			
	10	.0627			
	11	.0623			
32	0	.0619			
	1	.0615			
	2	.0611			
	3	.0608			
	4	.0604			
	5	.0600			
	6	.0596			
	7	.0592			
	8	.0589			
	9	.0585			
	10	.0581			
	11	.0577			
33	0	.0573			
	1	.0570			
	2	.0566			
	3	.0563			

PUBLIC EMPLOYEES RETIREMENT SYSTEM  
Plan II Option I  
Monthly Benefit per \$1.00  
of Accumulation

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20	.0039357
21	.0039525
22	.0039702
23	.0039887
24	.0040081
25	.0040286
26	.0040500
27	.0040726
28	.0040963
29	.0041213
30	.0041476
31	.0041753
32	.0042044
33	.0042351
34	.0042675
35	.0043015
36	.0043375
37	.0043756
38	.0044157
39	.0044581
40	.0045029
41	.0045502
42	.0046001
43	.0046528
44	.0047084
45	.0047670
46	.0048287
47	.0048939
48	.0049626
49	.0050352
50	.0051120
51	.0051933
52	.0052795
53	.0053712
54	.0054687
55	.0055727
56	.0056837
57	.0058025
58	.0059296
59	.0060657
60	.0062116
61	.0063676
62	.0065347
63	.0067134
64	.0069044
65	.0071085
66	.0073263
67	.0075587
68	.0078066

PERMANENT

PERMANENT

69	.0080711	
70	.0083537	
71	.0086558	
72	.0089785	
73	.0093230	
74	.0096898	
75	(.0100729)	
	.0100792	
76	(.01049100)	
	.0104910	
77	.0109250	
78	.0113811	
79	.0118589	
80	.0123587	
81	.0128793	
82	.0134243	
83	.0139934	
84	.0145880	
85	.0152103	
86	.0158600	
87	.0165374	
88	.0172413	
89	.0179682	
90	.0187162	
91	.0194835	
92	.0202654	
93	.0210569	
94	.0218459	
95	.0226265	
96	.0234038	
97	.0241752	
98	.0249356	
99	.0256785	

Public Employees Retirement System PERS I Optional COLA\*

Public Employees Retirement System Plan I Option I Monthly Benefit per \$1.00 of Accumulation

<del>(20 .638)</del>	<del>20 .0061792</del>
<del>21 .640</del>	<del>21 .0061891</del>
<del>22 .641</del>	<del>22 .0061997</del>
<del>23 .643</del>	<del>23 .0062111</del>
<del>24 .645</del>	<del>24 .0062232</del>
<del>25 .647</del>	<del>25 .0062362</del>
<del>26 .649</del>	<del>26 .0062501</del>
<del>27 .651</del>	<del>27 .0062650</del>
<del>28 .654</del>	<del>28 .0062809</del>
<del>29 .656</del>	<del>29 .0062979</del>
<del>30 .658</del>	<del>30 .0063162</del>
<del>31 .661</del>	<del>31 .0063357</del>
<del>32 .664</del>	<del>32 .0063566</del>
<del>33 .666</del>	<del>33 .0063790</del>
<del>34 .669</del>	<del>34 .0064030</del>
<del>35 .672</del>	<del>35 .0064286</del>
<del>36 .675</del>	<del>36 .0064561</del>
<del>37 .678</del>	<del>37 .0064856</del>
<del>38 .681</del>	<del>38 .0065173</del>
<del>39 .684</del>	<del>39 .0065512</del>
<del>40 .688</del>	<del>40 .0065875</del>
<del>41 .691</del>	<del>41 .0066263</del>
<del>42 .695</del>	<del>42 .0066677</del>
<del>43 .698</del>	<del>43 .0067119</del>
<del>44 .702</del>	<del>44 .0067590</del>
<del>45 .706</del>	<del>45 .0068091</del>
<del>46 .710</del>	<del>46 .0068624</del>
<del>47 .715</del>	<del>47 .0069190</del>
<del>48 .719</del>	<del>48 .0069792</del>
<del>49 .724</del>	<del>49 .0070432</del>
<del>50 .728</del>	<del>50 .0071114</del>
<del>51 .733</del>	<del>51 .0071843</del>
<del>52 .738</del>	<del>52 .0072621</del>
<del>53 .744</del>	<del>53 .0073455</del>
<del>54 .749</del>	<del>54 .0074351</del>
<del>55 .755</del>	<del>55 .0075313</del>

<del>56 .761</del>	<del>56 .0076350</del>
<del>57 .767</del>	<del>57 .0077467</del>
<del>58 .774</del>	<del>58 .0078672</del>
<del>59 .781</del>	<del>59 .0079972</del>
<del>60 .788</del>	<del>60 .0081375</del>
<del>61 .796</del>	<del>61 .0082885</del>
<del>62 .804</del>	<del>62 .0084509</del>
<del>63 .813</del>	<del>63 .0086255</del>
<del>64 .822</del>	<del>64 .0088128</del>
<del>65 .831</del>	<del>65 .0090135</del>
<del>66 .842</del>	<del>66 .0092282</del>
<del>67 .853</del>	<del>67 .0094577</del>
<del>68 .865</del>	<del>68 .0097029</del>
<del>69 .879</del>	<del>70 .0102454</del>
<del>70 .894</del>	<del>71 .0105455</del>
<del>71 .910</del>	<del>72 .0108665</del>
<del>72 .928</del>	<del>73 .0112093</del>
<del>73 .947</del>	<del>74 .0115744</del>
<del>74 or more .971</del>	<del>75 .0119617</del>
	<del>76 .0123709</del>
	<del>77 .0128014</del>
	<del>78 .0132580</del>
	<del>79 .0137246</del>
	<del>80 .0142169</del>
	<del>81 .0147281</del>
	<del>82 .0152621</del>
	<del>83 .0158184</del>
	<del>84 .0163986</del>
	<del>85 .0170045</del>
	<del>86 .0176361</del>
	<del>87 .0182936</del>
	<del>88 .0189757</del>
	<del>89 .0196789</del>
	<del>90 .0204015</del>
	<del>91 .0211420</del>
	<del>92 .0218957</del>
	<del>93 .0226575</del>
	<del>94 .0234160</del>
	<del>95 .0241655</del>
	<del>96 .0249116</del>
	<del>97 .0256620</del>
	<del>98 .0263822</del>
	<del>99 .0270961</del>

Age

<u>20</u>	<u>0.6369</u>	<u>20</u>	<u>.0061792</u>
<u>21</u>	<u>0.6386</u>	<u>21</u>	<u>.0061891</u>
<u>22</u>	<u>0.6404</u>	<u>22</u>	<u>.0061997</u>
<u>23</u>	<u>0.6422</u>	<u>23</u>	<u>.0062111</u>
<u>24</u>	<u>0.6441</u>	<u>24</u>	<u>.0062232</u>
<u>25</u>	<u>0.6460</u>	<u>25</u>	<u>.0062362</u>
<u>26</u>	<u>0.6480</u>	<u>26</u>	<u>.0062501</u>
<u>27</u>	<u>0.6501</u>	<u>27</u>	<u>.0062650</u>
<u>28</u>	<u>0.6522</u>	<u>28</u>	<u>.0062809</u>
<u>29</u>	<u>0.6544</u>	<u>29</u>	<u>.0062979</u>
<u>30</u>	<u>0.6567</u>	<u>30</u>	<u>.0063162</u>
<u>31</u>	<u>0.6590</u>	<u>31</u>	<u>.0063357</u>
<u>32</u>	<u>0.6614</u>	<u>32</u>	<u>.0063566</u>
<u>33</u>	<u>0.6639</u>	<u>33</u>	<u>.0063790</u>
<u>34</u>	<u>0.6665</u>	<u>34</u>	<u>.0064030</u>
<u>35</u>	<u>0.6691</u>	<u>35</u>	<u>.0064286</u>
<u>36</u>	<u>0.6718</u>	<u>36</u>	<u>.0064561</u>
<u>37</u>	<u>0.6747</u>	<u>37</u>	<u>.0064856</u>
<u>38</u>	<u>0.6775</u>	<u>38</u>	<u>.0065173</u>
<u>39</u>	<u>0.6805</u>	<u>39</u>	<u>.0065512</u>
<u>40</u>	<u>0.6836</u>	<u>40</u>	<u>.0065875</u>
<u>41</u>	<u>0.6867</u>	<u>41</u>	<u>.0066263</u>
<u>42</u>	<u>0.6899</u>	<u>42</u>	<u>.0066677</u>
<u>43</u>	<u>0.6932</u>	<u>43</u>	<u>.0067119</u>
<u>44</u>	<u>0.6966</u>	<u>44</u>	<u>.0067590</u>
<u>45</u>	<u>0.7001</u>	<u>45</u>	<u>.0068091</u>
<u>46</u>	<u>0.7036</u>	<u>46</u>	<u>.0068624</u>
<u>47</u>	<u>0.7073</u>	<u>47</u>	<u>.0069190</u>
<u>48</u>	<u>0.7111</u>	<u>48</u>	<u>.0069792</u>
<u>49</u>	<u>0.7149</u>	<u>49</u>	<u>.0070432</u>
<u>50</u>	<u>0.7188</u>	<u>50</u>	<u>.0071114</u>

51	0.7229	51	.0071843
52	0.7270	52	.0072621
53	0.7312	53	.0073455
54	0.7355	54	.0074351
55	0.7399	55	.0075313
56	0.7444	56	.0076350
57	0.7490	57	.0077467
58	0.7537	58	.0078672
59	0.7585	59	.0079972
60	0.7633	60	.0081375
61	0.7682	61	.0082885
62	0.7733	62	.0084509
63	0.7783	63	.0086255
64	0.7835	64	.0088128
65	0.7887	65	.0090135
66	0.7939	66	.0092282
67	0.7992	67	.0094577
68	0.8046	68	.0097029
69	0.8099	69	.0099651
70	0.8154	70	.0102454
71	0.8208	71	.0105455
72	0.8263	72	.0108665
73	0.8317	73	.0112093
74	0.8372	74	.0115744
75	0.8426	75	.0119617
76	0.8480	76	.0123709
77	0.8534	77	.0128014
78	0.8588	78	.0132528
79	0.8641	79	.0137246
80	0.8693	80	.0142169
81	0.8745	81	.0147281
82	0.8796	82	.0152621
83	0.8846	83	.0158184
84	0.8896	84	.0163986
85	0.8945	85	.0170045
86	0.8993	86	.0176361
87	0.9040	87	.0182936
88	0.9086	88	.0189757
89	0.9131	89	.0196789
90	0.9174	90	.0204015
91	0.9216	91	.0211420
92	0.9255	92	.0218957
93	0.9294	93	.0226575
94	0.9329	94	.0234160
95	0.9363	95	.0241655
96	0.9395	96	.0249116
97	0.9424	97	.0256520
98	0.9452	98	.0263822
99	0.9477	99	.0270961

(PERS I OPTION II	Age Difference Beneficiary Older	PERS I OPTION III
0.973	20 or more	0.987
0.970	19	0.986
0.964	18	0.984
0.960	17	0.982
0.957	16	0.980
0.953	15	0.978
0.949	14	0.976
0.945	13	0.974
0.940	12	0.972
0.934	11	0.969
0.929	10	0.966
0.923	9	0.963
0.917	8	0.960
0.910	7	0.956
0.902	6	0.952
0.895	5	0.948
0.887	4	0.944
0.878	3	0.939
0.866	2	0.932
0.852	1	0.924

Beneficiary Younger		
0.837	0	0.917
0.822	1	0.908
0.809	2	0.901
0.800	3	0.894
0.794	4	0.889
0.789	5	0.885
0.784	6	0.881
0.776	7	0.876
0.766	8	0.869
0.754	9	0.862
0.744	10	0.855
0.736	11	0.850
0.731	12	0.847
0.726	13	0.844
0.721	14	0.841
0.717	15	0.838
0.713	16	0.835
0.709	17	0.832
0.706	18	0.830
0.702	19	0.827
0.699	20	0.825
0.696	21	0.823
0.693	22	0.821
0.690	23	0.819
0.687	24	0.817
0.685	25	0.815
0.683	26	0.814
0.681	27	0.812
0.679	28	0.811
0.677	29	0.809
0.675	30	0.808
0.673	31	0.807
0.672	32	0.806
0.670	33	0.805
0.669	34	0.804
0.667	35	0.803
0.666	36	0.802
0.665	37	0.801
0.664	38	0.800
0.663	39	0.799
0.662	40 or more	0.798

Age difference = member's age minus beneficiary age

PERS II OPTION II	Age Difference Beneficiary Older	PERS II OPTION III
0.965	20 or more	0.983
0.963	19	0.982
0.960	18	0.980
0.958	17	0.979
0.955	16	0.978
0.952	15	0.976
0.948	14	0.974
0.944	13	0.972
0.939	12	0.969
0.933	11	0.966
0.926	10	0.962
0.919	9	0.958
0.912	8	0.954
0.903	7	0.950
0.894	6	0.945
0.885	5	0.939
0.874	4	0.933
0.862	3	0.926
0.846	2	0.917
0.828	1	0.907

Beneficiary Younger		
0.809	0	0.896
0.791	1	0.885
0.774	2	0.874
0.760	3	0.865
0.748	4	0.858
0.738	5	0.851
0.729	6	0.845

PERMANENT

PERMANENT

0.718	7	0.838
0.705	8	0.829
0.691	9	0.819
0.678	10	0.810
0.668	11	0.803
0.660	12	0.797
0.653	13	0.792
0.646	14	0.787
0.639	15	0.782
0.632	16	0.777
0.626	17	0.772
0.620	18	0.767
0.614	19	0.763
0.609	20	0.759
0.603	21	0.754
0.598	22	0.750
0.594	23	0.747
0.589	24	0.743
0.584	25	0.739
0.580	26	0.736
0.576	27	0.733
0.572	28	0.730
0.569	29	0.727
0.565	30	0.724
0.562	31	0.721
0.559	32	0.718
0.556	33	0.716
0.553	34	0.713
0.550	35	0.711
0.547	36	0.709
0.545	37	0.707
0.542	38	0.705
0.540	39	0.703
0.538	40 or more	0.701

9	0.746	0.815	0.854
10	0.736	0.807	0.848
11	0.729	0.801	0.843
12	0.724	0.798	0.840
13	0.720	0.794	0.837
14	0.715	0.790	0.834
15	0.711	0.787	0.832
16	0.708	0.784	0.829
17	0.704	0.781	0.827
18	0.702	0.779	0.825
19	0.698	0.776	0.822
20	0.695	0.774	0.820
21	0.692	0.772	0.818
22	0.689	0.769	0.816
23	0.686	0.767	0.814
24	0.683	0.764	0.812
25	0.681	0.763	0.811
26	0.679	0.761	0.809
27	0.677	0.759	0.808
28	0.675	0.758	0.806
29	0.673	0.756	0.805
30	0.671	0.754	0.804
31	0.669	0.753	0.802
32	0.668	0.752	0.801
33	0.667	0.750	0.800
34	0.666	0.749	0.799
35	0.664	0.747	0.798
36	0.663	0.747	0.797
37	0.662	0.746	0.796
38	0.661	0.745	0.796
39	0.660	0.744	0.795
40	0.659	0.743	0.794

Age difference = member's age minus beneficiary's age

**PERS II Survivor Option Factors**

**Member Younger**

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.928	0.951	0.962
-19	0.925	0.949	0.961
-18	0.922	0.946	0.959
-17	0.919	0.945	0.958
-16	0.916	0.942	0.956
-15	0.912	0.940	0.954
-14	0.908	0.937	0.952
-13	0.904	0.933	0.949
-12	0.898	0.930	0.946
-11	0.892	0.925	0.943
-10	0.885	0.920	0.939
-9	0.879	0.916	0.935
-8	0.873	0.911	0.932
-7	0.865	0.906	0.927
-6	0.857	0.900	0.923
-5	0.849	0.894	0.918
-4	0.839	0.887	0.912
-3	0.828	0.878	0.906
-2	0.813	0.867	0.897
-1	0.797	0.855	0.887

**Member Older**

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.779	0.841	0.876
1	0.763	0.829	0.866
2	0.748	0.817	0.856
3	0.735	0.807	0.848
4	0.725	0.798	0.841
5	0.716	0.791	0.835
6	0.708	0.785	0.830
7	0.698	0.777	0.823
8	0.687	0.767	0.815
9	0.674	0.757	0.806
10	0.662	0.747	0.797

Age difference = member's age minus beneficiary's age

**PERS I Survivor Option Factors**

**Member Younger**

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.948	0.965	0.973
-19	0.945	0.963	0.972
-18	0.940	0.959	0.969
-17	0.936	0.956	0.967
-16	0.933	0.954	0.965
-15	0.929	0.951	0.963
-14	0.925	0.949	0.961
-13	0.921	0.946	0.959
-12	0.916	0.943	0.956
-11	0.910	0.938	0.953
-10	0.906	0.935	0.950
-9	0.900	0.931	0.948
-8	0.895	0.928	0.945
-7	0.889	0.923	0.941
-6	0.882	0.918	0.937
-5	0.876	0.914	0.934
-4	0.868	0.908	0.930
-3	0.860	0.902	0.925
-2	0.849	0.894	0.918
-1	0.836	0.884	0.911

**Member Older**

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.822	0.874	0.902
1	0.808	0.863	0.894
2	0.796	0.854	0.886
3	0.787	0.848	0.881
4	0.782	0.844	0.878
5	0.778	0.840	0.875
6	0.773	0.837	0.872
7	0.766	0.831	0.868
8	0.757	0.824	0.862

11	0.653	0.739	0.791	2	((-7003))
12	0.646	0.733	0.786		.7035
13	0.640	0.728	0.781	3	.6975
14	0.634	0.722	0.776	4	.6914
15	0.628	0.717	0.772	5	.6853
16	0.622	0.712	0.767	6	.6793
17	0.616	0.707	0.763	7	.6732
18	0.611	0.702	0.759	8	.6672
19	0.606	0.698	0.755	9	.6611
20	0.602	0.694	0.751	10	.6551
21	0.596	0.689	0.747	11	.6490
22	0.591	0.684	0.743	4 0	.6429
23	0.587	0.681	0.740	1	.6376
24	0.582	0.676	0.736	2	.6322
25	0.577	0.672	0.732	3	.6269
26	0.573	0.668	0.729	4	.6215
27	0.569	0.665	0.726	5	.6162
28	0.565	0.661	0.722	6	.6109
29	0.562	0.658	0.720	7	.6055
30	0.558	0.655	0.717	8	.6002
31	0.555	0.652	0.714	9	.5948
32	0.552	0.649	0.712	10	.5895
33	0.549	0.647	0.709	11	.5841
34	0.546	0.644	0.707	5 0	.5788
35	0.543	0.641	0.705	1	.5740
36	0.540	0.638	0.702	2	.5693
37	0.538	0.637	0.700	3	.5646
38	0.535	0.634	0.698	4	.5598
39	0.533	0.632	0.696	5	.5551
40	0.531	0.630	0.695	6	.5504
				7	((-5446))
					.5456
				8	.5409
				9	.5362
				10	.5314
				11	.5267
				6 0	.5220
				1	.5178
				2	.5136
				3	.5094
				4	.5052
				5	.5010
				6	.4968
				7	.4926
				8	.4884
				9	.4842
				10	((-4880))
					.4800
				11	.4758
				7 0	.4716
				1	.4678
				2	.4641
				3	.4603
				4	.4566
				5	.4529
				6	.4491
				7	.4454
				8	.4416
				9	.4379
				10	.4342
				11	.4304
				8 0	.4267
				1	.4234
				2	.4200
				3	.4167
				4	.4134
				5	.4100
				6	.4067
				7	.4033
				8	.4000
				9	.3967
				10	.3933
				11	.3900
				9 0	.3867
				1	.3837
				2	.3807

Age difference = member's age minus beneficiary's age

PUBLIC EMPLOYEES RETIREMENT SYSTEM  
PLAN 2

Early Retirement Factors  
by Year and Month

0	0	1.0000			
	1	.9910			
	2	.9821			
	3	.9731			
	4	.9641			
	5	.9551			
	6	.9462			
	7	.9372			
	8	.9282			
	9	.9193			
	10	.9103			
	11	.9013			
1	0	.8923		7	0
	1	.8845		1	.4678
	2	.8767		2	.4641
	3	.8688		3	.4603
	4	.8610		4	.4566
	5	.8531		5	.4529
	6	.8453		6	.4491
	7	.8374		7	.4454
	8	.8296		8	.4416
	9	.8217		9	.4379
	10	.8139		10	.4342
	11	.8061		11	.4304
2	0	.7982		8	0
	1	.7913		1	.4234
	2	.7844		2	.4200
	3	.7776		3	.4167
	4	.7707		4	.4134
	5	.7638		5	.4100
	6	.7569		6	.4067
	7	.7500		7	.4033
	8	.7431		8	.4000
	9	.7363		9	.3967
	10	.7294		10	.3933
	11	.7225		11	.3900
3	0	.7156		9	0
	1	.7096		1	.3837
				2	.3807

PERMANENT

PERMANENT

	3	.3777		6	.2104
	4	.3747		7	.2088
	5	((=3748))		8	.2072
		<u>.3718</u>		9	.2057
	6	.3688		10	.2041
	7	.3658		11	.2025
	8	.3628		16 0	.2009
	9	.3598		1	.1995
	10	.3569		2	.1980
10	0	.3509		3	.1966
	1	.3482		4	.1952
	2	.3456		5	.1937
	3	.3429		6	.1923
	4	.3402		7	.1909
	5	.3375		8	.1894
	6	.3349		9	.1880
	7	.3322		10	.1866
	8	.3295		11	.1851
	9	.3269		17 0	.1837
	10	.3242		1	.1824
	11	.3215		2	.1811
11	0	.3188		3	.1798
	1	.3165		4	.1785
	2	.3141		5	.1772
	3	.3117		6	.1759
	4	.3093		7	.1746
	5	.3069		8	.1733
	6	.3045		9	.1720
	7	.3021		10	.1707
	8	.2997		11	.1694
	9	.2973		18 0	.1681
	10	.2949		1	.1670
	11	.2925		2	.1658
12	0	.2901		3	.1646
	1	.2879		4	.1634
	2	.2858		5	.1623
	3	.2836		6	.1611
	4	.2815		7	.1599
	5	.2793		8	.1587
	6	.2771		9	.1575
	7	.2750		10	.1564
	8	.2728		11	.1552
	9	.2707		19 0	.1540
	10	.2685		1	.1529
	11	.2664		2	.1519
13	0	.2642		3	.1508
	1	.2623		4	.1497
	2	.2603		5	.1487
	3	.2584		6	.1476
	4	.2564		7	.1465
	5	.2545		8	.1455
	6	.2526		9	.1444
	7	.2506		10	.1433
	8	.2487		11	.1422
	9	.2467		20 0	.1412
	10	.2448		1	.1402
	11	.2429		2	.1392
14	0	.2409		3	.1383
	1	.2392		4	.1373
	2	.2374		5	.1363
	3	.2357		6	.1353
	4	.2339		7	.1344
	5	.2322		8	.1334
	6	.2304		9	.1324
	7	.2287		10	.1315
	8	.2269		11	.1305
	9	.2252		21 0	.1295
	10	.2234		1	.1286
	11	.2216		2	.1277
15	0	.2199		3	.1269
	1	.2183		4	.1260
	2	.2167		5	.1251
	3	.2151		6	.1242
	4	.2136		7	.1233
	5	.2120		8	.1224
				9	.1215



10	.1207	28	0	.0720
11	<del>(.1998)</del>		1	.0716
	<u>.1198</u>		2	.0711
22	0		3	.0706
	.1189		4	.0701
	.1181		5	.0697
	.1173		6	.0692
	.1165		7	.0687
	.1157		8	.0683
	.1149		9	.0678
	.1140		10	.0673
	.1132		11	.0668
	.1124	29	0	.0664
	.1116		1	.0659
	.1108		2	.0655
	.1100		3	.0651
23	0		4	.0646
	.1092		5	.0642
	.1085		6	.0638
	.1077		7	.0634
	.1070		8	.0629
	.1063		9	.0625
	.1055		10	.0621
	.1048		11	.0616
	.1041	30	0	.0612
	.1033		1	.0608
	.1026		2	.0604
	.1018		3	.0600
	.1011		4	.0596
24	0		5	.0592
	.1004		6	.0588
	.0997		7	.0584
	.0990		8	.0580
	.0984		9	.0576
	.0977		10	.0572
	<del>(.0974)</del>		11	.0568
	<u>.0970</u>	31	0	.0564
	.0963		1	.0561
	.0957		2	.0557
	.0950		3	.0553
	.0943		4	.0550
	.0937		5	.0546
	.0930		6	.0543
25	0		7	.0539
	.0923		8	.0535
	.0917		9	.0532
	.0911		10	.0528
	.0905		11	.0524
	.0898	32	0	.0521
	.0892		1	.0517
	.0886		2	.0514
	.0880		3	.0511
	.0874		4	.0507
	.0868		5	.0504
	.0862		6	.0501
	.0856		7	.0497
26	0		8	.0494
	.0849		9	.0491
	.0844		10	.0487
	.0838		11	.0484
	.0833	33	0	.0481
	.0827		1	.0478
	.0821		2	.0475
	.0816		3	.0471
	.0810		4	<del>(.0768)</del>
	.0804			<u>.0468</u>
	.0799		5	.0465
	.0793		6	.0462
	.0788		7	.0459
27	0		8	.0456
	.0782		9	.0453
	.0777		10	.0450
	.0772		11	.0447
	.0767	34	0	.0444
	.0761		1	.0441
	.0756		2	.0438
	.0751			
	.0746			
	.0741			
	.0736			
	.0731			
	.0725			

PERMANENT

	3	.0435		7	.0265
	4	.0433		8	.0263
	5	.0430		9	.0261
	6	.0427		10	.0260
	7	.0424		11	.0258
	8	.0421		41 0	.0256
	9	.0418		1	.0255
	10	.0416		2	.0253
	11	.0413		3	.0251
35	0	.0410		4	.0250
	1	.0407		5	.0248
	2	.0405		6	.0247
	3	.0402		7	.0245
	4	.0400		8	.0243
	5	.0397		9	.0242
	6	.0394		10	.0240
	7	.0392		11	.0239
	8	.0389		42 0	.0237
	9	.0387		1	.0236
	10	.0384		2	.0234
	11	.0381		3	.0233
36	0	.0379		4	.0231
	1	.0376		5	.0230
	2	.0374		6	.0228
	3	.0372		7	.0227
	4	.0369		8	.0225
	5	.0367		9	.0224
	6	.0364		10	.0222
	7	.0362		11	.0221
	8	.0360		43 0	.0219
	9	.0357		1	.0218
	10	.0355		2	.0217
	11	.0352		3	.0215
37	0	.0350		4	.0214
	1	.0348		5	.0213
	2	.0346		6	.0211
	3	.0343		7	.0210
	4	.0341		8	.0209
	5	.0339		9	.0207
	6	.0337		10	.0206
	7	.0335		11	.0205
	8	.0332		44 0	.0203
	9	.0330		1	.0202
	10	.0328		2	.0201
	11	.0326		3	.0199
38	0	.0324		4	.0198
	1	.0322		5	.0197
	2	.0320		6	.0196
	3	.0318		7	.0194
	4	.0316		8	.0193
	5	.0313		9	.0192
	6	.0311		10	.0191
	7	.0309		11	.0189
	8	.0307		45 or more	.0188
	9	.0305			
	10	.0303			
	11	.0301			
39	0	.0299			
	1	.0297			
	2	.0296			
	3	.0294			
	4	.0292			
	5	.0290			
	6	.0288			
	7	.0286			
	8	.0284			
	9	.0282			
	10	.0281			
	11	.0279			
40	0	.0277			
	1	.0275			
	2	.0273			
	3	.0272			
	4	.0270			
	5	.0268			
	6	.0266			

**AMENDATORY SECTION** (Amending WSR 91-19-065, filed 9/16/91, effective 10/17/91)

**WAC 415-112-040 Actuarial tables, schedules, and factors.** This chapter contains the tables, schedules, and factors adopted by the director of the department of retirement systems (~~(pursuant to the authority granted by RCW 41.50.050 and 41.32.140)~~) for calculating optional retirement allowances of members of the Washington state teachers' retirement system (~~(as administered by the director)~~). These tables, schedules, and factors were adopted by the director upon the recommendation of (~~(and in light of the findings of the state actuary)~~) the state actuary based on the actuary's investigation into the mortality, service, compensation, and other experience of the members and beneficiaries of teachers' retirement system. The tables, schedules, and factors contained in this chapter (~~(shall)~~) govern the retire-

PERMANENT

ment allowances only of members retiring ((during the period from October 1, 1990)) on or after January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances of members retiring before ((October 1, 1990)) January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect at the time of each member's retirement. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances only of members retiring after the adoption of such new tables, schedules, and factors.

Table with 2 columns: Age (74 or more to 99) and Factor (e.g., .972, .0105696, .0109088, etc.)

PERMANENT

Teachers Retirement System TRS 1 Optional COLA\*
Teachers Retirement System TRS 1 Option 1 Monthly Benefit per \$1.00 of Accumulation

Table with 2 columns: Age (20 to 73) and Factor (e.g., .633, .0061484, .634, .0061561, etc.)

Table with 2 columns: Age (20 to 68) and Factor (e.g., 0.6315, .0061484, 0.6330, .0061561, etc.)

69	0.7920	69	.0091936	10	.7737
70	0.7972	70	.0094312	11	.7678
71	0.8025	71	.0096865	3 0	.7619
72	0.8078	72	.0099604	1	.7565
73	0.8132	73	.0102542	2	.7511
74	0.8185	74	.0105696	3	.7457
75	0.8239	75	.0109088	4	.7404
76	0.8292	76	.0112739	5	.7350
77	0.8346	77	.0116669	6	.7296
78	0.8399	78	.0120898	7	.7243
79	0.8452	79	.0125439	8	.7189
80	0.8504	80	.0130304	9	.7135
81	0.8557	81	.0135505	10	.7082
82	0.8608	82	.0141057	11	.7028
83	0.8659	83	.0146979	4 0	.6974
84	0.8710	84	.0153295	1	.6926
85	0.8760	85	.0160001	2	.6877
86	0.8810	86	.0167200	3	.6829
87	0.8859	87	.0174922	4	.6780
88	0.8908	88	.0183233	5	.6731
89	0.8956	89	.0192217	6	.6683
90	0.9003	90	.0201938	7	.6634
91	0.9049	91	.0212433	8	.6586
92	0.9095	92	.0223781	9	.6537
93	0.9140	93	.0236079	10	.6489
94	0.9184	94	.0249403	11	.6440
95	0.9227	95	.0263868	5 0	.6391
96	0.9269	96	.0279635	1	.6347
97	0.9310	97	.0296927	2	.6303
98	0.9350	98	.0315504	3	.6259
99	0.9390	99	.0335425	4	.6215
				5	.6171
				6	.6127
				7	.6083
				8	.6039
				9	.5995
				10	.5951
				11	.5907
				6 0	.5863
				1	.5823
				2	.5783
				3	.5743
				4	.5703
				5	.5663
				6	.5623
				7	.5583
				8	.5543
				9	.5503
				10	.5463
				11	.5423
				7 0	.5383
				1	.5346
				2	.5310
				3	.5273
				4	.5237
				5	.5201
				6	.5164
				7	.5128
				8	.5092
				9	.5055
				10	.5019
				11	.4982
				8 0	.4946
				1	.4913
				2	.4880
				3	.4847
				4	.4813
				5	.4780
				6	.4747
				7	.4714
				8	.4681
				9	.4648
				10	.4615
				11	.4582
				9 0	.4548
				1	.4518

\* For converting from the normal form Option 0 without a COLA, to Option 0 with a COLA

TEACHERS  
RETIREMENT SYSTEM  
PLAN 1  
Early Retirement Factors  
by Year and Month

0	0	1.0000		
	1	.9927		
	2	.9854		
	3	.9780		
	4	.9707		
	5	.9634		
	6	.9561		
	7	.9488		
	8	.9414		
	9	.9341		
	10	.9268		
	11	.9195		
1	0	.9122		
	1	.9056		
	2	.8990		
	3	.8924		
	4	.8858		
	5	.8792		
	6	.8727		
	7	.8661		
	8	.8595		
	9	.8529		
	10	.8463		
	11	.8397		
2	0	.8331		
	1	.8272		
	2	.8213		
	3	.8153		
	4	.8094		
	5	.8034		
	6	.7975		
	7	.7916		
	8	.7856		
	9	.7797		

PERMANENT

	2	.4488		6	.2683
	3	.4458		7	.2665
	4	.4428		8	.2648
	5	.4397		9	.2630
	6	.4367		10	.2612
	7	.4337		11	.2594
	8	.4307	16	0	.2577
	9	.4276		1	.2560
	10	.4246		2	.2544
	11	.4216		3	.2528
10	0	.4186		4	.2511
	1	.4158		5	.2495
	2	.4131		6	.2479
	3	.4103		7	.2462
	4	.4076		8	.2446
	5	.4048		9	.2430
	6	.4020		10	.2413
	7	.3993		11	.2397
	8	.3965	17	0	.2381
	9	.3938		1	.2366
	10	.3910		2	.2351
	11	.3882		3	.2336
11	0	.3855		4	.2321
	1	.3830		5	.2306
	2	.3804		6	.2291
	3	.3779		7	.2276
	4	.3754		8	.2261
	5	.3729		9	.2246
	6	.3704		10	.2231
	7	.3678		11	.2216
	8	.3653	18	0	.2201
	9	.3628		1	.2187
	10	.3603		2	.2173
	11	.3578		3	.2159
12	0	.3552		4	.2146
	1	.3529		5	.2132
	2	.3506		6	.2118
	3	.3483		7	.2104
	4	.3460		8	.2090
	5	.3437		9	.2077
	6	.3414		10	.2063
	7	.3391		11	.2049
	8	.3368	19	0	.2035
	9	.3345		1	.2023
	10	.3322		2	.2010
	11	.3299		3	.1997
13	0	.3276		4	.1984
	1	.3254		5	.1972
	2	.3233		6	.1959
	3	.3212		7	.1946
	4	.3191		8	.1934
	5	.3170		9	.1921
	6	.3149		10	.1908
	7	.3128		11	.1896
	8	.3107	20	0	.1883
	9	.3085		1	.1871
	10	.3064		2	.1860
	11	.3043		3	.1848
14	0	.3022		4	.1836
	1	.3003		5	.1824
	2	.2983		6	.1813
	3	.2964		7	.1801
	4	.2945		8	.1789
	5	.2925		9	.1778
	6	.2906		10	.1766
	7	.2887		11	.1754
	8	.2867	21	0	.1743
	9	.2848		1	.1732
	10	.2828		2	.1721
	11	.2809		3	.1710
15	0	.2790		4	.1699
	1	.2772		5	.1689
	2	.2754		6	.1678
	3	.2736		7	.1667
	4	.2719		8	.1656
	5	.2701		9	.1646

PERMANENT

PERMANENT

	10	.1635		2	.1009
	11	.1624		3	.1003
22	0	.1613		4	.0997
	1	.1603		5	.0991
	2	.1593		6	.0984
	3	.1583		7	.0978
	4	.1573		8	.0972
	5	.1563		9	.0966
	6	.1554		10	.0960
	7	.1544		11	.0953
	8	.1534	29	0	.0947
	9	.1524		1	.0942
	10	.1514		2	.0936
	11	.1504		3	.0930
23	0	.1494		4	.0924
	1	.1485		5	.0919
	2	.1476		6	.0913
	3	.1466		7	.0907
	4	.1457		8	.0902
	5	.1448		9	.0896
	6	.1439		10	.0890
	7	.1430		11	.0884
	8	.1421	30	0	.0879
	9	.1411		1	.0873
	10	.1402		2	.0868
	11	.1393		3	.0863
24	0	.1384		4	.0858
	1	.1375		5	.0852
	2	.1367		6	.0847
	3	.1358		7	.0842
	4	.1350		8	.0836
	5	.1341		9	.0831
	6	.1333		10	.0826
	7	.1325		11	.0820
	8	.1316	31	0	.0815
	9	.1308		1	.0810
	10	.1299		2	.0805
	11	.1291		3	.0801
25	0	.1282		4	.0796
	1	.1274		5	.0791
	2	.1267		6	.0786
	3	.1259		7	.0781
	4	.1251		8	.0776
	5	.1243		9	.0771
	6	.1235		10	.0766
	7	.1227		11	.0761
	8	.1220	32	0	.0756
	9	.1212		1	.0752
	10	.1204		2	.0747
	11	.1196		3	.0743
26	0	.1188		4	.0738
	1	.1181		5	.0734
	2	.1174		6	.0729
	3	.1167		7	.0725
	4	.1159		8	.0720
	5	.1152		9	.0716
	6	.1145		10	.0711
	7	.1138		11	.0707
	8	.1131	33	0	.0702
	9	.1123		1	.0698
	10	.1116		2	.0694
	11	.1109		3	.0689
27	0	.1102		4	.0685
	1	.1095		5	.0681
	2	.1088		6	.0677
	3	.1082		7	.0673
	4	.1075		8	.0668
	5	.1068		9	.0664
	6	.1062		10	.0660
	7	.1055		11	.0656
	8	.1048	34	0	.0652
	9	.1041		1	.0648
	10	.1035		2	.0644
	11	.1028		3	.0640
28	0	.1021		4	.0636
	1	.1015		5	.0632



<u>34</u>	<u>0.761</u>	<u>0.827</u>	<u>0.864</u>	79	.0101882
<u>35</u>	<u>0.760</u>	<u>0.826</u>	<u>0.864</u>	80	.0105851
<u>36</u>	<u>0.759</u>	<u>0.825</u>	<u>0.863</u>	81	.0109995
<u>37</u>	<u>0.758</u>	<u>0.824</u>	<u>0.862</u>	82	.0114309
<u>38</u>	<u>0.757</u>	<u>0.824</u>	<u>0.862</u>	83	.0118787
<u>39</u>	<u>0.756</u>	<u>0.823</u>	<u>0.861</u>	84	.0123425
<u>40</u>	<u>0.755</u>	<u>0.822</u>	<u>0.860</u>	85	.0128212
				86	.0133167
				87	.0138277
				88	.0143534
				89	.0148925
				90	.0154423
				91	.0159988
				92	.0165585
				93	.0171179
				94	.0176717
				95	.0182139
				96	.0187396
				97	.0192453
				98	.0197237
				99	.0201727

Age difference = member's age minus beneficiary age

TEACHERS  
RETIREMENT SYSTEM  
PLAN 2  
Monthly Benefit per \$1.00  
of Accumulation

20	.0038822
21	.0038963
22	.0039111
23	.0039267
24	.0039430
25	.0039602
26	.0039783
27	.0039972
28	.0040171
29	.0040380
30	.0040600
31	.0040831
32	.0041074
33	.0041329
34	.0041598
35	.0041882
36	.0042180
37	.0042494
38	.0042826
39	.0043175
40	.0043544
41	.0043934
42	.0044346
43	.0044781
44	.0045240
45	.0045725
46	.0046237
47	.0046777
48	.0047347
49	.0047948
50	.0048583
51	.0049252
52	.0049959
53	.0050707
54	.0051499
55	.0052339
56	.0053230
57	.0054178
58	.0055186
59	.0056262
60	.0057410
61	.0058637
62	.0059953
63	.0061358
64	.0062864
65	.0064475
66	.0066200
67	.0068046
68	.0070018
69	.0072122
70	.0074365
71	.0076750
72	.0079285
73	.0081977
74	.0084836
75	.0087870
76	.0091089
77	.0094497
78	.0098095

(TRS II OPTION II)	Age Difference Beneficiary Older	TRS II OPTION III
.0982	20 or more	0.990
.0980	19	0.988
.0978	18	0.987
.0975	17	0.985
.0973	16	0.984
.0970	15	0.982
.0967	14	0.980
.0963	13	0.978
.0959	12	0.975
.0955	11	0.973
.0951	10	0.971
.0947	9	0.968
.0943	8	0.965
.0938	7	0.962
.0934	6	0.959
.0930	5	0.956
.0923	4	0.952
.0913	3	0.947
.0897	2	0.940
.0878	1	0.932

	Beneficiary Younger	
.0858	0	0.923
.0838	1	0.914
.0820	2	0.906
.0806	3	0.899
.0797	4	0.893
.0789	5	0.888
.0781	6	0.883
.0774	7	0.879
.0767	8	0.874
.0761	9	0.870
.0754	10	0.866
.0748	11	0.861
.0741	12	0.857
.0733	13	0.852
.0724	14	0.847
.0716	15	0.841
.0709	16	0.836
.0704	17	0.831
.0699	18	0.828
.0694	19	0.824
.0689	20	0.821
.0685	21	0.818
.0681	22	0.814
.0676	23	0.811
.0672	24	0.808
.0669	25	0.805
.0665	26	0.803
.0661	27	0.800

PERMANENT



0.658	28	0.798
0.655	29	0.795
0.652	30	0.793
0.649	31	0.791
0.646	32	0.788
0.643	33	0.786
0.641	34	0.784
0.638	35	0.782
0.636	36	0.781
0.634	37	0.779
0.632	38	0.777
0.630	39	0.775
0.628	40 or more	0.773))

32	0.640	0.727	0.781
33	0.637	0.725	0.778
34	0.635	0.723	0.777
35	0.632	0.721	0.775
36	0.630	0.719	0.773
37	0.628	0.717	0.772
38	0.626	0.715	0.770
39	0.624	0.714	0.769
40	0.622	0.712	0.767

Age difference = member's age minus beneficiary age

TRS II Survivor Options

Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-20	0.949	0.965	0.974
-19	0.947	0.964	0.974
-18	0.945	0.962	0.973
-17	0.941	0.960	0.972
-16	0.939	0.958	0.972
-15	0.936	0.956	0.971
-14	0.932	0.954	0.971
-13	0.928	0.951	0.969
-12	0.924	0.948	0.968
-11	0.919	0.945	0.966
-10	0.915	0.942	0.965
-9	0.912	0.939	0.962
-8	0.909	0.937	0.960
-7	0.905	0.934	0.956
-6	0.902	0.932	0.954
-5	0.898	0.930	0.951
-4	0.892	0.925	0.947
-3	0.883	0.919	0.941
-2	0.869	0.908	0.931
-1	0.851	0.895	0.920

Member Older

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.832	0.881	0.908
1	0.814	0.868	0.897
2	0.797	0.855	0.887
3	0.784	0.845	0.879
4	0.777	0.839	0.875
5	0.770	0.834	0.870
6	0.763	0.829	0.866
7	0.757	0.824	0.862
8	0.751	0.819	0.858
9	0.746	0.815	0.855
10	0.740	0.810	0.851
11	0.735	0.806	0.847
12	0.729	0.801	0.843
13	0.722	0.795	0.838
14	0.713	0.789	0.833
15	0.706	0.783	0.828
16	0.700	0.778	0.824
17	0.696	0.774	0.821
18	0.691	0.771	0.818
19	0.687	0.767	0.814
20	0.683	0.763	0.811
21	0.679	0.760	0.809
22	0.675	0.757	0.806
23	0.670	0.753	0.802
24	0.666	0.749	0.799
25	0.663	0.747	0.797
26	0.659	0.743	0.794
27	0.655	0.740	0.792
28	0.652	0.738	0.789
29	0.649	0.735	0.787
30	0.646	0.732	0.785
31	0.643	0.730	0.783

TEACHERS RETIREMENT SYSTEM PLAN 2

Early Retirement Factors by Year and Month

0	0	1.0000
	1	.9916
	2	.9832
	3	.9748
	4	.9664
	5	.9580
	6	.9495
	7	.9411
	8	.9327
	9	.9243
	10	.9159
	11	.9075
1	0	.8991
	1	.8916
	2	.8842
	3	.8768
	4	.8693
	5	.8619
	6	.8545
	7	.8470
	8	.8396
	9	.8322
	10	.8247
	11	.8173
2	0	.8099
	1	.8033
	2	.7967
	3	.7901
	4	.7835
	5	.7769
	6	.7704
	7	.7638
	8	.7572
	9	.7506
	10	.7440
	11	.7374
3	0	.7308
	1	.7250
	2	.7191
	3	.7133
	4	.7074
	5	.7016
	6	.6957
	7	.6899
	8	.6840
	9	.6781
	10	.6723
	11	.6664
4	0	.6606
	1	.6554
	2	.6502
	3	.6449
	4	.6397
	5	.6345
	6	.6293
	7	.6241
	8	.6189

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	9	.6137		11	0	.3384
	10	.6085			1	.3359
	11	.6032			2	.3335
5	0	.5980			3	.3310
	1	.5934			4	.3286
	2	.5887			5	.3261
	3	.5841			6	.3237
	4	.5794			7	.3212
	5	.5748			8	.3188
	6	.5701			9	.3163
	7	.5654			10	.3139
	8	.5608			11	.3114
	9	.5561		12	0	.3089
	10	.5515			1	.3067
	11	.5468			2	.3045
6	0	.5422			3	.3023
	1	.5380			4	.3001
	2	.5338			5	.2979
	3	.5297			6	.2956
	4	.5255			7	.2934
	5	.5214			8	.2912
	6	.5172			9	.2890
	7	.5130			10	.2868
	8	.5089			11	.2846
	9	.5047		13	0	.2823
	10	.5005			1	.2803
	11	.4964			2	.2783
7	0	.4922			3	.2763
	1	.4885			4	.2743
	2	.4847			5	.2723
	3	.4810			6	.2703
	4	.4773			7	.2683
	5	.4735			8	.2663
	6	.4698			9	.2643
	7	.4661			10	.2623
	8	.4623			11	.2603
	9	.4586		14	0	.2582
	10	.4549			1	.2564
	11	.4511			2	.2546
8	0	.4474			3	.2528
	1	.4441			4	.2510
	2	.4407			5	.2491
	3	.4374			6	.2473
	4	.4340			7	.2455
	5	.4307			8	.2437
	6	.4273			9	.2419
	7	.4239			10	.2400
	8	.4206			11	.2382
	9	.4172		15	0	.2364
	10	.4139			1	.2348
	11	.4105			2	.2331
9	0	.4072			3	.2315
	1	.4042			4	.2298
	2	.4012			5	.2282
	3	.3981			6	.2265
	4	.3951			7	.2248
	5	.3921			8	.2232
	6	.3891			9	.2215
	7	.3861			10	.2199
	8	.3831			11	.2182
	9	.3800		16	0	.2166
	10	.3770			1	.2151
	11	.3740			2	.2136
10	0	.3710			3	.2121
	1	.3683			4	.2106
	2	.3656			5	.2091
	3	.3628			6	.2076
	4	.3601			7	.2061
	5	.3574			8	.2046
	6	.3547			9	.2031
	7	.3520			10	.2016
	8	.3493			11	.2001
	9	.3465		17	0	.1986
	10	.3438			1	.1972
	11	.3411			2	.1959
					3	.1945

	4	.1931		8	.1133
	5	.1918		9	.1125
	6	.1904		10	.1117
	7	.1890		11	.1109
	8	.1877		24 0	.1101
	9	.1863		1	.1094
	10	.1849		2	.1087
	11	.1836		3	.1079
18	0	.1822		4	.1072
	1	.1810		5	.1065
	2	.1797		6	.1058
	3	.1785		7	.1051
	4	.1772		8	.1043
	5	.1760		9	.1036
	6	.1747		10	.1029
	7	.1735		11	.1022
	8	.1723		25 0	.1014
	9	.1710		1	.1008
	10	.1698		2	.1001
	11	.1685		3	.0994
19	0	.1673		4	.0988
	1	.1662		5	.0981
	2	.1650		6	.0975
	3	.1639		7	.0968
	4	.1628		8	.0961
	5	.1616		9	.0955
	6	.1605		10	.0948
	7	.1594		11	.0941
	8	.1582		26 0	.0935
	9	.1571		1	.0929
	10	.1560		2	.0923
	11	.1548		3	.0917
20	0	.1537		4	.0911
	1	.1527		5	.0904
	2	.1516		6	.0898
	3	.1506		7	.0892
	4	.1496		8	.0886
	5	.1485		9	.0880
	6	.1475		10	.0874
	7	.1465		11	.0868
	8	.1454		27 0	.0862
	9	.1444		1	.0856
	10	.1433		2	.0851
	11	.1423		3	.0845
21	0	.1413		4	.0840
	1	.1403		5	.0834
	2	.1394		6	.0828
	3	.1384		7	.0823
	4	.1375		8	.0817
	5	.1366		9	.0812
	6	.1356		10	.0806
	7	.1347		11	.0801
	8	.1337		28 0	.0795
	9	.1328		1	.0790
	10	.1318		2	.0785
	11	.1309		3	.0780
22	0	.1299		4	.0775
	1	.1291		5	.0769
	2	.1282		6	.0764
	3	.1274		7	.0759
	4	.1265		8	.0754
	5	.1256		9	.0749
	6	.1248		10	.0744
	7	.1239		11	.0739
	8	.1230		29 0	.0734
	9	.1222		1	.0729
	10	.1213		2	.0724
	11	.1205		3	.0720
23	0	.1196		4	.0715
	1	.1188		5	.0710
	2	.1180		6	.0705
	3	.1172		7	.0701
	4	.1164		8	.0696
	5	.1156		9	.0691
	6	.1149		10	.0687
	7	.1141		11	.0682

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30	0	.0677	4	.0411	
	1	.0673	5	.0409	
	2	.0669	6	.0406	
	3	.0664	7	.0403	
	4	.0660	8	.0401	
	5	.0656	9	.0398	
	6	.0651	10	.0396	
	7	.0647	11	.0393	
	8	.0643	37	0	.0390
	9	.0638		1	.0388
	10	.0634		2	.0385
	11	.0630		3	.0383
31	0	.0625		4	.0381
	1	.0621		5	.0378
	2	.0617		6	.0376
	3	.0613		7	.0373
	4	.0609		8	.0371
	5	.0605		9	.0368
	6	.0602		10	.0366
	7	.0598		11	.0364
	8	.0594	38	0	.0361
	9	.0590		1	.0359
	10	.0586		2	.0357
	11	.0582		3	.0354
32	0	.0578		4	.0352
	1	.0574		5	.0350
	2	.0570		6	.0348
	3	.0567		7	.0345
	4	.0563		8	.0343
	5	.0559		9	.0341
	6	.0556		10	.0339
	7	.0552		11	.0336
	8	.0548	39	0	.0334
	9	.0545		1	.0332
	10	.0541		2	.0330
	11	.0537		3	.0328
33	0	.0534		4	.0326
	1	.0530		5	.0324
	2	.0527		6	.0322
	3	.0524		7	.0320
	4	.0520		8	.0318
	5	.0517		9	.0316
	6	.0514		10	.0313
	7	.0510		11	.0311
	8	.0507	40	0	.0309
	9	.0503		1	.0307
	10	.0500		2	.0306
	11	.0497		3	.0304
34	0	.0493		4	.0302
	1	.0490		5	.0300
	2	.0487		6	.0298
	3	.0484		7	.0296
	4	.0481		8	.0294
	5	.0478		9	.0292
	6	.0475		10	.0290
	7	.0472		11	.0288
	8	.0469	41	0	.0286
	9	.0465		1	.0285
	10	.0462		2	.0283
	11	.0459		3	.0281
35	0	.0456		4	.0279
	1	.0453		5	.0278
	2	.0450		6	.0276
	3	.0448		7	.0274
	4	.0445		8	.0272
	5	.0442		9	.0271
	6	.0439		10	.0269
	7	.0436		11	.0267
	8	.0433	42	0	.0265
	9	.0430		1	.0264
	10	.0428		2	.0262
	11	.0425		3	.0260
36	0	.0422		4	.0259
	1	.0419		5	.0257
	2	.0417		6	.0255
	3	.0414		7	.0254

	8	.0252
	9	.0251
	10	.0249
	11	.0247
43	0	.0246
	1	.0244
	2	.0243
	3	.0241
	4	.0240
	5	.0238
	6	.0237
	7	.0235
	8	.0234
	9	.0232
	10	.0231
	11	.0229
44	0	.0228
	1	.0226
	2	.0225
	3	.0223
	4	.0222
	5	.0221
	6	.0219
	7	.0218
	8	.0216
	9	.0215
	10	.0214
	11	.0212
45 or more	0	.0211

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 415-02-099 Purpose.

**WSR 96-03-103**

**PERMANENT RULES**

**WESTERN WASHINGTON UNIVERSITY**

[Filed January 22, 1996, 10:12 a.m.]

Date of Adoption: December 8, 1995.

Purpose: Update and clarify conduct system for students; clarify judicial process and disciplinary action/sanctions; add antihazing policy.

Citation of Existing Rules Affected by this Order: Repealing chapter 516-22 WAC; and adopting chapter 516-23 WAC.

Statutory Authority for Adoption: RCW 28B.35.-120(12).

Adopted under notice filed as WSR 95-21-035 on October 10, 1995.

Changes Other than Editing from Proposed to Adopted Version: Removed WAC 516-23-045 Interference with freedom of expression. This will be revised and placed in WAC chapter at later date.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 1.

Effective Date of Rule: Thirty-one days after filing.

January 17, 1996

Wendy Bohlke

Assistant Attorney General

Senior Counsel

**Chapter 516-23 WAC  
STUDENT RIGHTS AND RESPONSIBILITIES  
CODE**

**NEW SECTION**

**WAC 516-23-005 Preamble.** Western Washington University students enjoy the basic rights of all members of society. At the same time, students have an obligation to fulfill the responsibilities incumbent upon all citizens, as well as the responsibilities of their particular roles within the academic community. The student is expected to abide by university policies and regulations, as well as federal, state and local laws. Those who are charged with a violation are assured a fair judicial process and, when found in violation, appropriate disciplinary action.

The judicial system at Western Washington University is a process within the university that facilitates student developmental growth while maintaining the standards of the university to insure academic integrity, campus-wide safety, and adherence to the university mission. The student judicial process is intended to provide positive and educational experience paired with fair and well-considered sanctions for misconduct.

**NEW SECTION**

**WAC 516-23-010 Definitions.** "Student" includes all persons taking courses at the university, both full and part time. Nonmatriculated international students attending language institutes or foreign study programs at the university shall also be considered students under the terms of this code.

"University" refers to the facilities, property, programs, activities, and members of Western Washington University community.

**NEW SECTION**

**WAC 516-23-015 Jurisdiction.** The *Student Rights and Responsibilities Code* is a guideline for expected student behavior at the university. While the university does not act as a policing agent for students when they are off campus, the university reserves the right to take action if a student's behavior is determined to threaten the health, safety, and/or property of the university and its members.

Individual students alleged to have violated this code, policies, or regulations of Western Washington University will be subject to disciplinary action under the code. Sanctions against student organizations are governed by the

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procedures established by the university administrative unit governing the recognition of each organization. Disciplinary proceedings against individual member(s) of a student organization can be initiated under this code independently of action taken against the student organization.

#### NEW SECTION

**WAC 516-23-020 Relationship between civil and criminal law and university disciplinary proceedings.** Many offenses actionable under this code are also violations of federal, state or local laws. A student may face criminal and civil prosecution as well as university disciplinary action for violation of these laws. The university reserves the right to initiate action for offenses that have an impact on the educational or administrative functions or the general well-being of the university. Proceedings under this code may be carried out prior to, simultaneously, or following civil or criminal proceedings in the courts. University proceedings are not subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

#### NEW SECTION

**WAC 516-23-025 Actionable offenses.** A violation of university policy or regulation that has a significant impact upon the educational or administrative functions of the university can be grounds for disciplinary action. A student may also be subject to disciplinary action for violation of federal, state, or local civil or criminal law. The code does not contain an exhaustive list of all offenses or misconduct for which a student may be disciplined. Those offenses which disrupt integral aspects of the university mission and are most commonly acted upon are listed in the code.

#### NEW SECTION

**WAC 516-23-030 Disruptive behavior.** The educational mission of Western Washington University requires the freedom to teach, conduct research and administer the university. A student shall be subject to disciplinary action if he/she engages in any behavior which interferes with the rights of others or which materially or substantially obstructs or disrupts teaching, learning, research or administrative functions.

#### NEW SECTION

**WAC 516-23-035 Academic dishonesty.** Maintaining academic honesty is the joint responsibility of students and the faculty. Incidents of academic dishonesty reported to the office of the provost shall make the student subject to disciplinary action. Academic dishonesty shall include, but is not limited to: Plagiarizing, misrepresentation of identity, and/or giving or receiving unauthorized information prior to or during any type of examination. See academic dishonesty policy. Students found to have violated canons of ethical research and scholarship, as defined in the policy and procedural guidelines for misconduct in research and scholarship, may also be subject to disciplinary action.

#### NEW SECTION

**WAC 516-23-040 Forgery and fraud.** Maintaining accurate and credible records and documents is necessary for the university to fulfill its educational mission and to assure the welfare of its students. Any student:

- (1) Falsely making, completing, or altering any university document, record, or identification;
- (2) Possessing or presenting as authentic any falsified document, record, or identification; or
- (3) Giving to any university official information known to be false or incomplete shall be subject to disciplinary action.

#### NEW SECTION

**WAC 516-23-050 Alcohol and other drugs policy violations.** Substance abuse by members of the university community impacts the quality of the educational experience of all students. Violations of alcohol/drug policies including, but not limited to, the possession, use or distribution of controlled or illegal substances, or violence to others and/or destruction of property while under the influence of alcohol/drugs shall make the student subject to disciplinary action. See alcohol and other drugs policy.

#### NEW SECTION

**WAC 516-23-055 Misuse of computers, electronic data or communications.** The performance of normal university business, research, education, and other vital functions is dependent upon the appropriate use of computing and the integrity of electronic data. Students shall be subject to disciplinary action if they:

- (1) Interfere with university computing or communication functions or with the work of another student, faculty member, or university official;
- (2) Gain unauthorized access, alter data, or misuse computing facilities; or
- (3) Use university computing facilities to send harassing messages (as defined in WAC 516-23-070, Violence and harassment).

#### NEW SECTION

**WAC 516-23-060 Hazing.** Any act which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or university organization shall make a student subject to disciplinary action. See hazing policy.

#### NEW SECTION

**WAC 516-23-065 Sexual misconduct.** The university strives to provide an environment in which students, staff, and faculty can work, live and study free from all types of sexual misconduct. Students engaging in sexual misconduct shall be subject to disciplinary action. The range of sexual misconduct includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape. See sexual misconduct policy.

NEW SECTION

**WAC 516-23-070 Violence and harassment.** A quality educational experience can only occur in an environment free of intimidation, harassment, or physical assault. Any student creating a hostile or threatening educational or working environment shall be subject to disciplinary proceedings. These behaviors include, but are not limited to, the following:

The use of physical force or violence to endanger the physical or mental health and safety of another person or to restrict the freedom of action or movement of another person.

Behavior that involves an expressed or implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in university activities and causes the person to have a reasonable apprehension that such interference is about to occur.

Threatening to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety.

Intentionally and repeatedly following or contacting another person in a manner that intimidates, harasses or places another in fear for personal safety or property.

NEW SECTION

**WAC 516-23-075 Judicial structure.** The vice-president for student affairs/dean for academic support services or designee is responsible for administration of this code. A judicial officer, who shall have authority to adjudicate and administer sanctions for violations of this code, shall be appointed by the vice-president for student affairs/dean for academic support services.

A six-member judicial appeal board shall be appointed fall quarter: Two faculty (appointed by the vice-president for academic affairs), three students (appointed by the associated students board) and one member of the student affairs/academic support services staff (appointed by the vice-president for student affairs/dean for academic support services). An alternate for each position shall be appointed at the same time by the same authority. Student appointments shall be for one academic year. Faculty and staff appointments shall be for staggered two-year terms. The judicial appeal board shall have authority to hear appeals based upon the judicial officer's decision and to adjudicate and administer sanctions for violations of this code. The vice-president shall assure that the judicial appeal board appointment process is initiated annually and shall assure that allegations of code violations and appeals are properly referred.

Should the need arise during summer session, an ad hoc judicial appeal board shall be appointed subject to the same composition and procedures as the academic year judicial appeal board.

NEW SECTION

**WAC 516-23-080 Conduct proceedings.** A primary objective of the disciplinary process is to promote the personal and social development of those students found responsible for misconduct. Charges are investigated and resolved in an atmosphere of candor, truthfulness, and civility. Conduct hearings and other related proceedings do not follow the same procedures used in courtrooms, nor do they use the same rules of evidence as in a civil or criminal trial.

The conduct process shall proceed as follows:

Any student, faculty, or staff member of the university alleging a violation of this code shall deliver to the office of the vice-president for student affairs/dean for academic support services a written statement of the charges against the student. The judicial officer will investigate the accuracy of the charge.

If in the judicial officer's judgment there is sufficient basis to consider the charge(s), the judicial officer shall notify the accused student and those bringing the charges in writing of the time and place of their respective hearings and the availability of advisement to assist the student in their understanding of the judicial process. The hearing shall occur no less than five nor more than fifteen calendar days from the date of notification. The accused student will be informed of that portion of the code he/she is alleged to have violated and the nature and date of the alleged violation. The student will also be provided with the *Student Rights and Responsibilities Code*, chapter 516-22 WAC. If there is insufficient basis to consider the charge, the individual initiating the charge will be so informed.

The judicial officer shall meet separately with the student and those bringing the charges and shall weigh appropriate evidence. Within ten business days, the judicial officer shall notify the student in writing of his/her decision, including the sanction if a violation is determined to have occurred. Written notification shall include a statement of the student's option to appeal to the judicial appeal board and the opportunity to seek advisement on the judicial process.

NEW SECTION

**WAC 516-23-085 Appeals.** An accused student may appeal a decision of the judicial officer to the judicial appeal board. The student is allowed one appeal to the university judicial appeal board. The appeal must be made in writing to the vice-president for student affairs/dean for academic support services or designee within ten business days of receiving the judicial officer's written decision. An extension of an additional ten business days will be granted upon the student's request. The appeal must indicate the basis for the appeal. The vice-president shall notify the judicial appeal board chair of the pending appeal. No sanction may be invoked while an appeal is pending, except as provided in "Interim suspension permitted," WAC 516-22-150.

NEW SECTION

**WAC 516-23-090 Basis for appeal.** Allowable reasons for appeal are:

(1) The original conduct hearing was not conducted in conformity with prescribed procedures or the code was misinterpreted by the judicial officer.

(2) The decision reached regarding the accused student was based upon insufficient evidence.

(3) The sanction(s) imposed is/are disproportionate to the violation of that section of the code which the student is found to have violated.

A student bringing an appeal based upon any of the preceding three reasons shall be provided the opportunity to present his/her case to the judicial appeal board. The chair of the judicial appeal board may, at his/her discretion, choose to limit any part of the case that requires review.

(4) To consider new substantive evidence because such evidence was not presented by the person appealing at the time of the original conduct hearing. Appeals based upon new evidence will be heard by the university judicial officer.

NEW SECTION

**WAC 516-23-095 Appeal hearing procedures.** The judicial appeal board chair shall notify the student of the date of the appeal hearing. The hearing shall be set not less than five nor more than fifteen business days from the date of notification or as mutually agreed upon by the student and the university. A student who does not appear before the judicial appeal board at his/her appeal hearing waives the privilege to have the appeal heard at another time. The judicial appeal board may proceed with the appeal based upon consideration of the evidence available to them without the student's presence, or the appeal may be dismissed at the discretion of the judicial appeal board.

(1) Notification of the appeal hearing shall include:

(a) Time, date and location of hearing.

(b) Identification of the section of the "*Student Rights and Responsibilities Code*" which the student is alleged to have violated.

(c) Nature and date of the alleged violation.

(d) Copy of the code.

(e) Name of the university office where procedural advice can be sought.

(f) Statement of the student's right to call witnesses, to speak on his/her own behalf, to be accompanied by an advocate of his/her choice.

(g) Statement of the student's right to review written or tape recorded evidence prior to the appeal hearing.

(2) Appeal hearings shall be conducted in a manner which is informal and at the same time assures fundamental fairness of procedure. Appeal hearings shall be closed to the public unless the accused student requests an open hearing.

(a) No student who is charged with violation shall be asked to give information or to answer questions concerning an alleged violation of this code unless the student has received notification of a hearing in accordance with the notification provision above.

(b) The student may bring witnesses, speak in his/her own behalf and may have present an advocate of his/her own choice. The advocate's function is to provide support to the student but may not address the board.

(c) The student may have an attorney present at the appeal hearing to advise the student in the presentation of his/her appeal. The attorney may not address the judicial appeal board unless he/she is called as a material witness in the case.

(d) An accused student has the option to present questions to the judicial appeal board to be asked of the person(s) making the allegation and those who present testimony.

(e) The judicial appeal board chair and the accused student may call any person to speak concerning the alleged violation. The board chair may limit or exclude testimony which is irrelevant, immaterial or repetitious.

(f) Five members shall constitute a quorum of the judicial appeal board. Actions by the board require support by a majority of those members present at the time of the hearing and during presentation of the testimony. A board member may be excused from listening to part of the testimony with the chair's approval, if the testimony is preserved by tape recording and the absence is due to extenuating circumstances.

(g) Any member of the Board who considers himself/herself unable to render an impartial decision in a particular case shall excuse himself/herself from the board's deliberations in advance and may be replaced by an alternate.

(3) The judicial appeal board chair shall notify the accused student in writing of the disposition of the case within ten business days from the conclusion of the appeal hearing.

NEW SECTION

**WAC 516-23-100 Interference of the judicial process.** Student rights and responsibilities contained with this code are assured through the orderly function of the judicial process. The failure of a student formally charged with a violation of this code to appear at a hearing after receiving appropriate notice is still subject to disciplinary action. A student formally charged with a violation of this code may not excuse himself/herself from judicial proceedings by withdrawing from the university and shall be prohibited from enrolling for subsequent quarters until such time as he/she does appear for a hearing. Other abuse of the university judicial system includes, but is not limited to, making reports or claims known to be false or attempting to influence the impartiality of witnesses or judicial members. Such behavior may make a student subject to disciplinary action.

NEW SECTION

**WAC 516-23-105 Disciplinary sanctions.** The following penalties are disciplinary sanctions which the judicial officer or judicial appeal board may give a student found to have violated the code. Measures imposed may include any one or a combination of the sanctions. Sanctions may be modified to meet the circumstances of the particular case.

(1) **Warning:** A notice in writing to the student that the student has violated the *Student Rights and Responsibilities Code*.

(2) **Disciplinary probation:** A written reprimand for violation of the *Student Rights and Responsibilities Code*.



Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to have violated the code during the probationary period.

(3) **Loss of privileges:** Denial of specified privileges (i.e., participation in specific activities, restriction from specific areas of campus) for a designated period of time.

(4) **Educational activities:** Activities designed to foster student development may include, but are not limited to: Community service, attendance at educational programs, or written assignments.

(5) **Restitution:** Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(6) **Residence hall relocation:** Transfer of living arrangements to another university residence hall or apartment.

(7) **Termination of university residences agreement:** Separation of the student from university residences.

(8) **Disciplinary suspension:** Separation of the student from the university for a designated period of time, after which, the student is eligible to return. Conditions for readmission may be specified.

(9) **Disciplinary expulsion:** Permanent separation of the student from the university.

#### NEW SECTION

**WAC 516-23-110 Administrative withdrawal due to mental disorders.** As provided in chapter 516-28 WAC, a student may be involuntarily withdrawn from the university who, because of mental disorders, is unable to abide by university policy, regulations, and procedures and who represents a serious threat to themselves or others. A student accused of misconduct under the *Student Rights and Responsibilities Code* may be diverted from that disciplinary process and withdrawn according to the standards of chapter 516-28 WAC. Those standards include:

- (1) Lacking the capacity to respond to pending disciplinary charges due to a mental disorder; or
- (2) Not knowing the nature of the wrongfulness of the conduct at the time of the alleged offense.

Students otherwise subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the vice-president for student affairs/dean for academic support services in writing at least two business days prior to any judicial hearing. The vice-president shall make a determination within five business days after the student's written submittal. Evidence of any mental disorder may not be admitted as evidence or considered in a judicial hearing by the judicial officer of judicial appeal board. See involuntary withdrawal due to mental disorders, chapter 516-28 WAC.

#### NEW SECTION

**WAC 516-23-115 Record of proceedings.** Records prepared by the judicial officer or judicial appeal board shall be maintained in a conduct file in the office of the vice-president for student affairs/dean for academic support services for six years. Records shall be destroyed at the end of the period, which commences upon adjournment of the conduct hearing. If an accused student has been found not

in violation of this code, no record of either the charges or the proceedings will be entered into the conduct file.

The university shall not make the records of judicial proceedings or sanctions available to any member of the public except upon the informed written consent of the students involved. Certain exceptions are authorized. See the student records policy, chapter 516-26 WAC.

#### NEW SECTION

**WAC 516-23-120 Statement of accused student's rights.** The university is committed to ensuring the rights of the accused student throughout the judicial process. A student accused of misconduct under this code has certain, specific rights in the disciplinary process.

An accused student:

Is entitled to a fair judicial process.

Will receive written notice of the charge(s) against them.

Will receive a thorough description of the basis for the charge(s).

Has the right to a hearing with the judicial officer.

May obtain information and procedural advice from the university.

May expect sanction(s) and discipline proportionate to the gravity of the misconduct.

May have one advocate present at their hearing(s). The advocate may give advice to the student but may not address the judicial officer or the judicial appeal board.

May present questions to be asked of witnesses.

Will receive written notification of the judicial officer's decision within ten business days from the date of the hearing.

May appeal the judicial officer's decision to the judicial appeal board.

#### NEW SECTION

**WAC 516-23-125 Statement of rights of those subjected to student misconduct.** The university is committed to ensuring the rights of those that suffer from student misconduct, that is, a person who has been physically, psychologically, and/or financially injured by the student responsible for the misconduct.

Subjects of student misconduct:

May obtain information and procedural advice from the university.

May decline to participate in university conduct proceedings.

When appropriate, will be advised of their option to bring civil or criminal charges against the accused.

May be accompanied by an advocate of their choice throughout the judicial process. The advocate may advise the subject but may not address the judicial officer or the judicial appeal board.

May make a statement regarding the impact of the incident/misconduct, either orally or written, to be considered during the sanctioning portion of the conduct and/or the appeal hearing.

Will be informed when an appeal is made of the judicial officer's decision.

Will not be subjected to discussion of his/her history or behavior that does not bear instrumentally on the case being heard.

In cases involving violence, including sexual misconduct/assault, will be informed of the finding of the judicial officer or the judicial appeal board within ten business days of its conclusion.

#### NEW SECTION

**WAC 516-23-130 Relationship to university residences' conduct system.** As an integral component of the university conduct system, the university residences' conduct system is responsible for adjudicating the majority of conduct violations that occur by residence hall students on university residences' premises or at university residences' sponsored events. Conduct cases may be referred to the university judicial officer as determined by the appropriate university residences' staff. The basis for such referrals include, but are not limited to:

(1) Violations which include, but are not limited to physical violence, sexual assault, harassment, and the distribution or sale of illegal drugs or other controlled substances.

(2) Violations of university residences or university conduct codes and policies by nonresidential students while on university residences' premises or at university residences' sponsored events.

(3) Cases when a student moves out of university residences prior to completion of a university residences' conduct process.

#### NEW SECTION

**WAC 516-23-135 Interim suspension.** In order to prevent danger to individuals, substantial destruction of property or significant disruption of teaching, research or administrative functions, the vice-president for student affairs/dean for academic support services or designee may temporarily suspend a student for stated cause subject to such limitation as the vice-president/dean shall deem appropriate.

In all cases, the student is entitled to a hearing before the appropriate judicial officer or judicial appeal board as soon as such hearing can be held, but not to exceed five business days after the beginning date of interim suspension unless the student should request an extension. During the interim suspension period, the student shall be allowed on university property only to the extent deemed permissible by the vice-president for student affairs/dean for academic support services.

#### NEW SECTION

**WAC 516-23-140 Interpretation and revision.** Any question of interpretation regarding the *Student Rights and Responsibilities Code*, whether in content, procedure, or intent, shall be the responsibility of the vice-president for student affairs/dean for academic support services for final determination.

The *Student Rights and Responsibilities Code* shall be reviewed every five years by the university services council's student rights and responsibilities committee.

#### NEW SECTION

**WAC 516-23-145 Committee on student rights and responsibilities.** There is established a committee on student rights and responsibilities to be composed of five students: Three appointed by the associated students' board of directors' including at least one graduate student, and two appointed by university residence's interhall council; one member of the student affairs staff appointed by the vice-president for student affairs; one faculty member appointed by the faculty senate; the university conduct officer; one member of the university security staff appointed by the director of public safety; and one member of the university residences' staff.

The purpose of the committee on student rights and responsibilities shall be to evaluate the university's "*Student Rights and Responsibilities Code*." The committee may recommend changes in policy concerning student rights and responsibilities.

#### **WSR 96-03-107**

#### **PERMANENT RULES**

#### **DEPARTMENT OF TRANSPORTATION**

[Filed January 23, 1996, 8:30 a.m.]

Date of Adoption: January 22, 1995 [1996].

Purpose: To establish administrative procedures for conducting a public advisory election on selected transportation projects under chapter 47.46 RCW, Public Private Initiatives in Transportation Act.

Statutory Authority for Adoption: RCW 47.46.030 (3)-(11).

Adopted under notice filed as WSR 95-23-096 on November 21, 1995.

Changes Other than Editing from Proposed to Adopted Version: Editing and clarification of proposed rule language was made to chapter 468-105 WAC, per public comment.

The following changes were made to the proposed rule based upon public comments:

WAC 468-105-010 General, the purpose of the public advisory election is stated to clarify the purpose of the administrative rule.

WAC 468-105-020 Definitions:

(2) City, the definition was edited to mean "any" city formed under Title 35 and 35A RCW. The proposed rule language was misunderstood because of recent statute changes to jurisdiction classifications.

(9) Proposed project, the term "private entities" was edited to the term "project developers" as defined in rule.

(10) Public advisory election, edited to clarify the purpose of the election in response to comments indicating proposed rule language was unclear.

WAC 468-105-030 Determination of initial affected project area:

(1) Traffic and economic analysis, (b) edited to clarify that the study of traffic diversion patterns would include those to "local streets, highways and to other transportation services and facilities."

(2) Public notification and consultation, edited to clarify that the department would consult with interested persons, organizations and jurisdictions in developing the methodolo-

gy used to collect data and the criteria that is established to recommend an initial affected project area boundary.

(3) Studies available to public, edited to clarify that the department would make all information including published reports, raw data, analysis, maps and other information generated from the studies to the public.

WAC 468-105-040 Local involvement committee:

(2) LIC membership, edited to clarify members who support or oppose a proposed project.

(4) LIC duties, (f) edited "may" to "should."

(5) LIC meeting and procedures,

(a) Edited to clarify that the method and time of public notice for LIC meetings would be established by LIC meeting procedures.

(b) Establishes that the LIC will create meetings procedures within thirty days of the first meeting and provides clarification as to the type of procedures that would be created including but not limited to the frequency and location of meetings, alternate members, methods of public notification and public participation at the meetings. Edited language to clarify that a simple majority of LIC members is fifty percent plus one member of the LIC committee.

(c) Added language to clarify that all LIC meeting materials are subject to public disclosure pursuant to chapter 42.17 RCW.

WAC 468-105-050 Affected project area:

(1) Public comment on initial affected project area, edited to clarify that the department, in consultation with the LIC, shall establish the maximum period of public comment.

WAC 468-105-070 Public advisory elections:

(1) Transmittal to county auditor, edited to clarify that the department will send a letter requesting a public advisory election to the county auditors in the affected project area.

(3) Ballot proposition

(a) Edited to clarify that the purpose of the advisory election is to advise the department on the public support or opposition to the imposition of tolls or user fees to implement the proposed project within the affected project area.

(c) Changed to require the department to submit the complete text of ballot title and summary sixty days before election date to the county auditor. Change makes consistent the time frames for preparing for an election. Also edited references to "local" in describing voter's pamphlet.

(4) Election date, edited language relating to the election date and the materials that must be prepared for the election.

(5) Voter's pamphlet

(a) Edited to clarify that the county auditor may contract with the Secretary of State to prepare the voter's pamphlet. Edited to make consistent the information that will be contained in the voter's pamphlet with the rest of the rule. Edited to clarify statements for or against the ballot measure to be prepared for the voter's pamphlet. Edited to clarify that the date of transmittal of information to the county auditor, rather than the receipt of the information must be within sixty days but not more than ninety days of the election date. Edited to clarify that the Secretary of State will also transmit committee names and their statements to the auditors.

WAC 468-105-080 Public advisory election results:

(3) LIC recommendation on public advisory election results, edited to clarify LIC recommendation to the depart-

ment is related to whether the department should proceed with the imposition of tolls to finance the proposed project.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 8, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1996

S. A. Moon

Deputy Secretary  
for Operations

## Chapter 468-105 WAC PUBLIC ADVISORY ELECTIONS FOR SELECTED STATE TRANSPORTATION FACILITIES

### NEW SECTION

**WAC 468-105-010 General.** These administrative rules were developed pursuant to RCW 47.46.030 (3) through (11) concerning public advisory elections conducted within an affected project area by the county auditors for the purpose of advising the department on the public support or opposition to the imposition of tolls to finance a proposed project pursuant to chapter 47.46 RCW, Public-Private Initiatives Transportation Act.

### NEW SECTION

**WAC 468-105-020 Definitions.** For the purpose of implementing RCW 47.46.030 (3) through (11) relative to the process for conducting public advisory elections on selected transportation facilities, the following definitions apply:

(1) "Affected project area" means a geographic area of the state impacted by the imposition of tolls or user fees that is defined and established by the department following a public comment period and a recommendation by the public private local involvement committee. The affected project area is a geographic portion of the state which is depicted in a map.

(2) "City" means any jurisdiction formed under Titles 35 and 35A RCW including any first class city (RCW 35.01.010), second class city (RCW 35.01.020), town (RCW 35.01.040) or code city (RCW 35A.01.035).

(3) "County auditor" shall have the same meaning as provided in RCW 29.01.043.

(4) "Department" means the Washington state department of transportation.

(5) "Initial affected project area" means a geographic area of the state that is defined by the department as a result

of a comprehensive analysis of traffic patterns and economic impacts created by the imposition of tolls or user fees to finance a proposed project.

(6) "Local involvement committee (LIC)" means an advisory committee officially named the "public private local involvement committee" which will be established for each proposed project. The LIC will serve in an advisory capacity on all functions and responsibilities of the department in the conduct of the public advisory election.

(7) "Project description" means a written description of the proposed project that is prepared by the department in consultation with the LIC. The project description is a statement of the essential elements of the proposed project.

(8) "Project developer" means a private entity submitting a proposed project to improve transportation capital facilities under chapter 47.46 RCW.

(9) "Proposed project" means a conceptual project proposed by one or more project developers which is intended to build or improve transportation capital facilities. The proposed projects are those selected pursuant to chapter 47.46 RCW which have organized opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the proposed project by the deadlines set forth in RCW 47.46.030 (10) and (11).

(10) "Public advisory election" means an election conducted within an affected project area by the county auditor for the purpose of advising the department on the public support or opposition to the imposition of tolls to finance a proposed project.

#### NEW SECTION

**WAC 468-105-030 Determination of initial affected project area.** The department shall define an initial affected project area for proposed projects selected before September 1, 1994, or after June 30, 1997. In order to define the initial affected project area, and pursuant to the requirements of RCW 47.46.030(4), the department shall conduct a comprehensive analysis of traffic patterns and economic impacts to define the geographic area that is affected by the imposition of tolls or user fees.

(1) **Traffic and economic analysis.** Such analysis shall result in a map depicting the initial affected project area, and shall include, at a minimum:

(a) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees;

(b) An analysis of the anticipated traffic diversion patterns on local streets, highways and to other transportation services or facilities;

(c) An analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and impacted by the project;

(d) An analysis of the economic impact of tolls or user fees on the price of goods and services generally; and

(e) An analysis of the relationship of the project to state transportation needs and benefits.

(2) **Public notification and consultation.** The department shall notify and consult with jurisdictions and interested persons and organizations regarding the studies to be conducted, including the methodology that is developed to collect data and the criteria that is established to recommend the initial affected project area boundary.

(3) **Studies available to public.** The department shall make the studies available to the public including the methodology and criteria used to develop the study recommendations, published reports, raw data, analysis, maps and other information generated by the studies.

(4) **Precinct boundaries.** At the request of the department, the county auditor in any county which is within an initial affected project area shall provide current precinct maps or boundary descriptions to the department. The department shall use the most current precinct maps or boundary descriptions in defining each initial affected project area.

#### NEW SECTION

##### **WAC 468-105-040 Local involvement committee.**

(1) **Creation of the local involvement committee.** A public private local involvement committee shall be established for each proposed project. The committee will be known as the local involvement committee or "LIC." Within sixty days after defining the initial affected project area, all appointments to the LIC shall be made and submitted to the department.

(2) **LIC membership.** The LIC membership shall consist of:

(a) One elected official of each county and one elected official from each city lying wholly or in part within the affected project area. Such members shall be appointed by a majority of the members of the county or city legislative authority.

(b) Two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed in support of the proposed project, if any such organizations exist; and two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed to oppose the proposed project, if any such organizations exist. Such members shall be appointed by the county legislative authority. Prior to such appointment, the county legislative authority shall identify and validate organizations officially formed in support of or in opposition to the proposed project. The method of validation shall be devised by the county. Appointments shall be made from list(s) submitted by the chairs of the validated organizations. The county legislative authority shall submit a list of the appointed members in writing to the department.

(c) Four public members active in a state-wide transportation organization who shall be appointed by the governor.

(d) Vacancies in the membership of the LIC shall be filled by the appointing authority under (a) through (c) of this subsection.

(e) If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the proposed project is located.

(3) **Compensation and expenses.** Members of the LIC shall serve without compensation and may not receive reimbursement for subsistence, lodging expenses, or travel expenses from the department.

(4) **LIC duties.** Each LIC will serve in an advisory capacity to the department on all matters related to the administration of the public advisory elections including:

(a) Reviewing the methodology, criteria and recommendations developed in the traffic and economic studies and used by the department to establish the initial affected project area boundary.

(b) Advising the department on the maximum length of the public comment period for establishing the affected project area.

(c) Reviewing the initial affected project area boundary and recommending adjustments, if any are deemed desirable, to the geographic boundaries and the LIC membership.

(d) Reviewing the project description prepared by the department and recommending changes, if any are deemed desirable, in order for the department to prepare the final project description.

(e) Recommending to the department the date for the public advisory elections that are within those dates established by RCW 29.13.020.

(f) Reviewing the public advisory election results and providing a recommendation to the department on whether the department should impose tolls or user fees to finance the proposed project.

(g) Providing advice on any other matters identified by the department related to the administration of the public advisory election in the affected project areas.

(5) **LIC meeting and procedures.**

(a) LIC meetings shall be open to the public and shall be subject to the requirements of the Open Public Meetings Act, RCW 42.30.030. The public shall have advance notice of LIC meetings as described in LIC procedures established in (b) of this subsection. Meetings shall be held in locations within the affected project areas and be accessible for persons with disabilities.

(b) Within thirty days of the first LIC meeting, each LIC shall develop meeting procedures to include but not be limited to the frequency and location of meetings, alternate members, methods of public notification and public participation at the meetings. Each LIC shall also develop its own method of providing recommendations to the department, provided that all decisions of the LIC shall be made by a simple majority of the LIC members. A simple majority shall be defined as fifty percent of the members plus one member of the LIC committee.

(c) All LIC meeting summaries, reports, correspondence and other materials are subject to public disclosure pursuant to chapter 42.17 RCW.

(6) **Administrative support to LIC's.** The department shall provide administrative support to the LIC's. Such support shall include notifying members of meetings, providing public notification of meetings, facilitating meetings, arranging for meetings and materials, and other necessary administrative support.

### NEW SECTION

**WAC 468-105-050 Establishing affected project area.** (1) **Public comment on initial affected project area.** The department shall conduct a minimum thirty-day public comment period on the definition of each initial affected project area boundary. The department, in consultation with the LIC shall establish the maximum period of public comment.

(2) **LIC recommendation on affected project area.** The LIC shall review the public comments. The LIC shall recommend adjustments to the geographic boundary of the initial affected project area based upon the public comment. Adjustments to the geographic boundary shall be established by precinct. The LIC may also recommend adjustments to the membership of the LIC based upon any recommended boundary adjustments.

(3) **Final boundaries of affected project area.** Within fourteen calendar days after the close of the public comment period and a recommendation from the LIC, the department shall establish the final boundaries of the affected project area in units no smaller than a precinct as defined in RCW 29.01.120.

### NEW SECTION

**WAC 468-105-060 Project description.** (1) **Proposed project description.** A draft project description shall be developed by the department based upon the information submitted by project developers for the proposed project as approved by the state transportation commission on August 18, 1994, or contained in a proposal approved after June 30, 1997.

(2) **LIC recommendation on project description.** The department shall provide the project description to the LIC. The LIC shall recommend changes to the content of the project description, if any, so that the department may prepare the final project description.

(3) **Publication of project description.** The department shall publish the project description in newspapers of general circulation in each county lying in whole or in part within the affected project area for a period of seven calendar days.

### NEW SECTION

**WAC 468-105-070 Public advisory elections.** (1) **Transmittal to county auditor.** Within fourteen calendar days after the last day of the publication of the project description, the department shall transmit a letter requesting a public advisory election and a copy of the map depicting the affected project area and the project description to the county auditor of each county in which any portion of the affected project area is located.

(2) **Precinct verification.** Upon receipt of the affected project area map, and the project description, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area.

(3) **Ballot proposition.**

(a) The department shall request the office of the attorney general to prepare the ballot title and summary advising the department on the public support or opposition to the imposition of tolls or user fees to implement the proposed project within the affected project area in the same

manner and type as those required under RCW 29.79.040 for the public advisory election.

(b) Any registered voter residing within the affected project area who is dissatisfied with the content of the ballot title or summary may appeal to the superior court of Thurston County in the same manner as provided for on state measures in RCW 29.79.060.

(c) Not later than sixty days before the election date, the department shall submit the complete text of the ballot title and summary to the county auditor for the purpose of preparing the voters pamphlet and conducting the public advisory election.

(4) **Election date.** Unless a special election is requested by the department, the public advisory election shall be held at the next succeeding general election to be held in the state. The special election date must be the next date for a special election provided under RCW 29.13.020 that is at least sixty days, but not more than ninety days after the transmittal of the final map of the affected project area, project description, the ballot title and summary to the county auditor under subsection (1) of this section.

**(5) Voters pamphlet.**

(a) The county auditor shall prepare or contract with the secretary of state to prepare the voters pamphlet in the same manner required under chapter 29.81A RCW using the full text of the ballot title, summary, the project description and the geographic boundary of the affected project together with statements for and against the imposition of tolls or user fees to finance the proposed project. Committees to prepare the statements for and against the imposition of tolls to finance the proposed project for the voters pamphlet shall be appointed in the same manner as committees for state measures under RCW 29.81.050. The secretary of state shall transmit committee names and their statements to the county auditors.

(b) The county auditor may consolidate the voters pamphlet on the public advisory election with any other local voters pamphlet that is being produced by the county auditor for an election.

(6) **Reimbursement for election costs.** The department shall reimburse the costs of publication and distribution of information to the voters incurred by the county auditor in the same manner that local election costs are allocated under RCW 29.13.045. The department shall reimburse the county auditor for the cost of an election.

**NEW SECTION**

**WAC 468-105-080 Public advisory election results.**

(1) **Canvassing the votes cast on a public advisory election.** Immediately following the certification of the votes cast on the public advisory election by the county canvassing board, the county auditor shall transmit a certified copy of the returns of that special election to the secretary of state in the same manner as provided for state measures in RCW 29.62.090.

(2) **Certification of returns on a public advisory election to the department.** Within three days following the receipt of the certified returns from a special election on a public advisory election, the secretary of state shall accumulate the results from the respective counties and certify the results to the department.

(3) **LIC recommendation on public advisory election results.** Within thirty days after receipt of the certification of the election results from the secretary of state, the LIC shall review the election results and recommend to the department on whether to proceed with the imposition of tolls to finance the proposed project.

**WSR 96-03-139**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed January 24, 1996, 9:19 a.m.]

Date of Adoption: January 24, 1996.

Purpose: This rule provides tax reporting information to persons leasing or renting tangible personal property (equipment) with or without an operator. The rule was amended to implement the 1993 legislation that made the rental of equipment with an operator a retail sale.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 458-20-211.

Statutory Authority for Adoption: RCW 82.32.300 and 82.08.010(1).

Adopted under notice filed as WSR 95-16-006 on July 20, 1995.

Changes Other than Editing from Proposed to Adopted Version: The last sentence in subsection (2)(a) was added. This is a further clarification of the first sentence in subsection (2)(a).

The last eight words were added in subsection (2)(c) which reads "as distinguished from the operation of the equipment." This is a clarification that was requested at the public hearing.

The last seven words of the first sentence in subsection (2)(e) were added which reads "beyond those needed to operate the equipment." This was an additional clarification requested at the public hearing.

The second sentence of subsection (2)(e) was added which reads "Even if it is determined that the customer is purchasing the knowledge, skills, and expertise of the operator, the transaction may still be a retail sale if the activity is specifically included by statute within the definition of a retail sale." This is an additional clarification.

Additional language was added to subsection (5)(d)(iv) to clarify the leasing or renting motor carrier equipment with an operator is generally taxable as a public utility activity. This language was added in response to written testimony.

The last sentence was added in subsection (5)(d)(v). This sentence further explains why scaffolding rental is a retail sale and clarifies the relationship of the true object test to dominion and control.

Language was added to subsection (7) to further explain how to determine the value for state tax purposes of rentals or leases when the amount charged by the seller to the buyer does not represent a reasonable rental value. This is specifically required by RCW 82.08.010(1). Addition of this language in the rule does not represent a change in existing tax policy and is a further clarification.

An additional example was added in subsection (8)(h) to further explain that the use of a piece of equipment by an owner of that equipment cannot be treated for tax purposes

as a rental. This is a clarification and consistent with Washington case law.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 1996

Russell W. Brubaker

Assistant Director

**AMENDATORY SECTION** (Amending Order 87-4, filed 8/11/87)

**WAC 458-20-211 Leases or rentals of tangible personal property, bailments.** (1) **Introduction.** This section explains how persons are taxable who rent or lease tangible personal property or rent equipment with an operator. RCW 82.04.050(4) was amended by chapter 25, Laws of 1993 sp. sess. to specifically include the rental of equipment with an operator as a retail sale. However, as will be explained in more detail below, some activities performed by operated equipment may be taxable under classifications other than retail sales if the operator and equipment perform activities as a prime contractor or subcontractor and these activities are specifically classified under other tax classifications by the revenue act.

(2) **Definitions.** (a) The terms "leasing" and "renting" are used interchangeably and refer generally to the act of granting to another the right of possession to and use of tangible personal property for a consideration. When "lease," "leasing," "lessee," or "lessor" are used in this section, these terms are intended to include rentals as well, even if not specifically stated.

Persons may not claim to be leasing or renting equipment to themselves since they are not granting to another the right of possession.

~~((2))~~ (b) The term "bailment" refers to the act of granting to another the temporary right of possession to and use of tangible personal property for a stated purpose without consideration to the grantor.

(c) The term "subcontractor" refers to a person who has entered into a contract for the performance of an act with the person who has already contracted for its performance. A subcontractor is generally responsible for performing the work to contract specification and determines how the work will be performed. In purchasing subcontract services, the customer is primarily purchasing the knowledge, skills, and expertise of the contractor to perform the task, as distinguished from the operation of the equipment.

(d) The term "rental of equipment with operator" means the provision of equipment with an operator to a lessee to perform work under the specific direction of the lessee. In such cases the lessor is generally not responsible for performing work to contract specification and does not determine how the work will be performed. Though not controlling, persons who rent equipment with an operator typically bill on the basis of the amount of time the equipment was used.

(e) The term "true object test" as it relates to this section means the analysis of a transaction involving equipment and an operator to determine if the lessee is simply purchasing the use of the equipment or purchasing the knowledge, skills, and expertise of the operator beyond those needed to operate the equipment. Even if it is determined that the customer is purchasing the knowledge, skills, and expertise of the operator, the transaction may still be a retail sale if the activity is specifically included by statute within the definition of a retail sale. This test can also be applied to rentals of tangible personal property when the seller performs some service in connection with the rental.

(f) The term "true lease" (often referred to as an "operating lease") refers to the act of leasing property to another for consideration with the property under the dominion and control of the lessee for the term of the lease with the intent that the property will revert back to the lessor at the conclusion of the lease.

(g) The term "financing lease" (often referred to as a "capital lease") typically involves the lease of property for a stated period of time with ownership transferring to the "lessee" at the conclusion of the lease for a nominal or minimal payment. The transaction is structured as a lease, but retains some elements of an installment sale. Financing leases will generally be taxed as if they are installment sales. The presence of some or all of the following factors indicates a financing lease with the transaction treated as an installment sale:

(i) The lessee is given an option to purchase the equipment, and, if so, the option price is nominal (sometimes referred to as a "bargain purchase option");

(ii) The lessee acquires equity in the equipment;

(iii) The lessee is required to bear the entire risk of loss;

(iv) The lessee pays all the charges and taxes imposed on ownership;

(v) There is a provision for acceleration of rent payments; and

(vi) The property was purchased specifically for lease to this lessee.

(3) A true lease, rental, or bailment of personal property does not arise unless the lessee or bailee, or employees or independent operators hired by the lessee or bailee actually takes possession of the property and exercises dominion and control over it. Where the owner/lessor of the equipment or the owner's/lessor's employees or agents maintain dominion and control over the personal property and actually operate it, the owner/lessor has not generally relinquished sufficient control over the property to give rise to a true lease, rental, or bailment of the property.

(4) RCW 82.04.050 excludes from the definition "retail sale" any purchases for the purpose of resale, "as tangible personal property." ((Also, under this statutory definition, the term "retail sale" includes the renting or leasing of

~~tangible personal property to consumers. However, equipment which is operated by the owner or an employee of the owner is considered to be resold, rented, or leased only under the following, precise circumstances:))~~ Persons who use equipment in performing services either as prime contractors or as subcontractors are not purchasing the equipment for purposes of reselling the equipment as tangible personal property. These contractors must pay retail sales tax or use tax at the time the equipment is acquired. Generally persons who rent equipment with an operator are not purchasing the equipment for resale as tangible personal property and must pay retail sales or use tax at the time the equipment is acquired. Persons renting operated equipment to others may purchase the equipment without payment of retail sales tax only when the equipment is rented as tangible personal property. This can be demonstrated only when:

~~(a) ((The property consists of construction equipment; (b))~~ The agreement between the parties is designated as an outright lease or rental, without reservations; and ((c) (e)) b) The ((customer)) lessee acquires the right of possession, dominion, and control of the equipment, even to the exclusion of the lessor.

~~((5) The third))~~ This last requirement ((above)) is a factual question and the burden of proof is upon the owner/operator of the equipment to establish that the degree of control has been relinquished necessary to constitute a lessor-lessee relationship. Weight will be given to such factors as who has physical, operating control of the equipment; who is responsible for its maintenance, fueling, repair, storage, insurance (risk of loss or damage), safety and security of operation, and whether the operator is a loaned ((servant)) employee. If control of these factors is left with the owner/operator, then as a matter of fact, there has not been a relinquishing of control of the equipment to the degree necessary to create a lessor-lessee relationship for the rental of tangible personal property. This is true, even though the customer exercises some constructive control over such matters as when and where the equipment is used in connection with the construction work being performed, i.e., the contractor controls the job site.

~~((6) Thus, the terms leasing, rental, or bailment do not include any arrangements pursuant to which the owner of the equipment reserves dominion and control of the equipment and either operates the equipment or property or provides an employee operator, whether or not such employee operator works under the general supervision or control of the customer.~~

~~(7))~~ (5) Business and occupation (B&O) tax.

(a) Outright rentals of bare (unoperated) equipment or other tangible personal property as well as ((true)) leases ((or rentals)) of operated equipment ((or property)) are generally subject to the retailing classification of the business and occupation tax.

(i) When a lessor purchases equipment for bare rental or lease, the seller of the equipment is making a wholesale sale to the lessor and is required to obtain a resale certificate from the lessor as provided in WAC 458-20-102.

(ii) Under unique circumstances when ((such things are)) equipment is rented for rent by the lessee, without intervening use, then the original rental is subject to the wholesaling classification of tax and the subsequent rental is subject to the retailing classification. The original seller is

required to obtain a resale certificate for these wholesale sales.

(iii) Persons who purchase equipment for use as prime contractors or subcontractors are considered to be the consumers of these purchases. They are the consumers because they are not specifically reselling the tangible personal property. Persons selling equipment to these persons are retailers and subject to the retailing B&O tax.

~~((8))~~ (b) Persons who provide equipment or other tangible personal property and, in addition, operate the equipment or supply an employee to operate the same for a charge, without relinquishing substantial dominion and control to the customer, are providing a service that is classified as a retail sale unless the nature of the activity is specifically classified under another tax classification. Where a specific tax classification applies to the activity, the income is subject to the business and occupation tax (or public utility tax) according to the classification of the activities performed by the equipment and operator. ((Thus)) In the case of building construction, it will be presumed that the rental of equipment with operator to a contractor is a retail sale unless the operator has responsibility for performing construction to contract specifications and assumes control over how the work will be performed.

(c) Under some circumstances, the leasing or renting of tangible personal property can be subject to the special "retailing of interstate transportation equipment" B&O tax classification. This classification applies if the sale is exempt from retail sales tax because of the specific tax exemptions of RCW 82.08.0261, 82.08.0262, or 82.08.0263. These exemptions apply primarily to sales to private or common carriers who are engaged in interstate or foreign commerce.

(d) The following examples show how the tax would be applied to certain situations.

(i) The charge made by a subcontractor to a prime construction contractor for use of equipment with an operator used in the paving of a parking lot as part of the construction of a building would be taxable under wholesaling—other ((and a similar)) when the subcontractor has the responsibility to perform the work to contract specification and determines how the work will be performed.

(ii) A contractor performing work to contract specification making a charge to a ((contractor)) city for use of equipment and operator in the construction of a publicly-owned road would be taxable under public road construction.

(iii) Income for loading of a vessel using equipment with an operator is taxable under the stevedoring classification.

(iv) Income from transporting persons or property for hire by motor vehicle, including leasing or renting motor carrier equipment with driver, is generally taxable under either motor transportation or urban transportation.

(v) A customer rents scaffolding and the seller is responsible for a technician to setup, move, and dismantle it. This is the rental of tangible personal property since the true object of the transaction is having the scaffolding available for use by the customer. The customer also assumes dominion or control over the scaffolding by determining who will use the scaffolding and by controlling the use of the scaffolding.



(vi) Income from transporting persons or property for hire by vessel is not a retail equipment rental with operator.

~~((9))~~ (6) Retail sales tax. Persons who rent or lease tangible personal property to users or consumers are required to collect from their lessees the retail sales tax measured by gross income from rentals as of the time the rental payments fall due.

~~((10))~~ (a) RCW 82.04.050 excludes from the definition of the term "retail sale," purchases for resale "as tangible personal property." Thus the retail sales tax does not apply upon sales of tangible personal property to persons who purchase the same solely for the purpose of renting or leasing such property without operators ~~((or making "true" leases of operated equipment))~~. However, the retail sales tax applies upon sales to persons who provide such property with operators for a charge, without relinquishing substantial dominion and control, or who intend to make some use of the property other than or in addition to renting or leasing.

~~((11) The retail sales tax does not apply upon the rental or lease of motor vehicles and trailers to nonresidents of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when the motor vehicle or trailer is registered and licensed in a foreign state. For purposes of this exemption, the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.~~

~~((12) Effective April 3, 1986, (RCW 82.08.0295))~~ (b) Financing leases are treated for state tax purposes as installment sales. The retail sales tax applies to the full selling price. Refer to WAC 458-20-198.

(c) The retail sales tax ~~((shall))~~ does not apply to lease payments made by a seller/lessee ~~((to a purchaser/lessor))~~ under a sale/leaseback agreement in respect to property, equipment, and components used by the seller/lessee primarily in the business of canning, preserving, freezing, or dehydrating fresh fruits, vegetables, and fish. Nor does the sales tax apply to the purchase amount paid by the lessee pursuant to an option to purchase this specific kind of processing equipment at the end of the lease term. (See RCW 82.08.0295.) In both situations the availability of this special sales tax exemption is contingent upon the seller/lessee having paid retail sales tax or use tax at the time of acquisition of such special processing property, equipment, and components. The use tax will also not apply if the sales tax does not apply.

~~((13))~~ (7) Use tax and/or deferred retail sales tax. Consumers who rent or lease tangible personal property from others and who have not paid the retail sales tax to their lessors are liable for the retail sales tax or use tax on the amount of the rental payments as of the time the payments fall due unless an exemption from the tax applies. However, if the rental payments do not represent a reasonable rental value for the article, the taxable value shall be determined according to the rental charges made by other sellers of similar articles of like quality and character. This can include using the rate of return as a percentage of the

capitalized value that lessors of the particular type of property are generally using in rate setting.

In some cases lessors may lease articles wherein the lease payments do not include property taxes or insurance. These leases are often referred to as "net leases" with the insurance and taxes paid directly by the lessee. If the lessor is the party insured and the party legally liable for payment of the taxes, the payments made directly by the lessee must be treated as additional consideration to the lessor and subject to the retailing and retail sales tax.

~~((14) Effective April 3, 1986, (RCW 82.12.0295) the use tax shall not apply to lease payments by a seller/lessee to a lessor under a sale/leaseback agreement in respect to property, equipment, and components used by the seller/lessee primarily in the business of canning, preserving, freezing, or dehydrating fresh fruits, vegetables, and fish. Nor does the use tax apply to the purchase amount paid by the lessee pursuant to an option to purchase at the end of the lease term. In both situations the availability of this use tax exemption is contingent upon the seller/lessee having paid retail sales tax or use tax at the time of acquisition of such property, equipment, and components.~~

~~((15))~~ (a) Bailment. The value of tangible personal property held or used under bailment is subject to use tax if the property was purchased or acquired under conditions whereby the retail sales tax was not paid by the bailor. Tax liability is that of the bailor, or of the bailee if the bailor has not paid the tax. The measure of the tax to the bailor is the fair market value of the article at the time the article was first put to use in Washington. The measure of the use tax to the bailee for articles acquired by bailment is the reasonable rental ~~((for such articles))~~ with the value to be determined as nearly as possible according to the rental price at the place of use of similar products of like quality and character. In the absence of rental prices for similar products, the reasonable rental may be computed by prorating the retail selling price over the period of possession had by a bailee and payable in monthly installments. No further use tax is due upon property acquired by bailment after tax has been paid by the bailee or any previous bailee upon the full original value of the article.

~~((16))~~ (b) Use tax does not apply to use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental, and testing activities conducted by the user, providing the acquisition or use of such articles by the bailor are exempt from sales or use tax. (RCW 82.12.0265.)

(8) 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 results of other situations must be determined after a review of all of the facts and circumstances. In some situations it may be difficult to determine if the transaction is a retail equipment rental with operator. If in doubt as to whether a particular rental with an operator is a retail sale, taxpayers should contact the department for a specific ruling.

(a) ABC Crane is hired to supply a crane and operator to lift air conditioning equipment from the ground and hold it in place on the roof of a six-story building while the prime construction contractor bolts the unit down. ABC Crane's operator will retain control over the crane. ABC Crane has no responsibility to attach wiring, plumbing, or otherwise

make the unit operational. ABC Crane is renting equipment with an operator since it has no responsibility to perform actual construction to contract specification. The activity of renting a crane with an operator is a service included within the definition of a retail sale and is not otherwise tax classified elsewhere within the revenue act. The purchase of the crane by ABC is also a retail transaction because ABC retained control over the crane and is not renting the crane as tangible personal property.

(b) ABC Crane is hired by a prime contractor to install a neon sign on the side of a new six-story building which is being constructed. ABC is responsible for making certain that the sign is correctly fastened to the side of the building and for installation of the electrical connections and meets the proper building codes. ABC is directly involved in construction and performs work to contract specification. Since the work is being done for the prime contractor for further resale, this is a wholesale sale, provided a resale certificate is obtained. Had ABC only been hired to hold the sign in place while the prime contractor fastened it, this would have been a retail rental of equipment with operator.

(c) XYZ Concrete Pumping is hired by a prime contractor to supply a concrete pump and operator to pump concrete from a premix concrete delivery truck to the location of the forms. XYZ has no responsibility to build forms, do the concrete finishing, or otherwise see that the concrete meets or is placed according to contract specifications. In short, the pump functions similarly to a wheelbarrow, but in a more efficient manner. XYZ is not a subcontractor and is making a retail rental of equipment with an operator.

(d) ABC Company purchases a crane which it rents to others as a bare rental. It periodically rents the crane to lessees on this basis for two years. Beginning in the third year of ownership of this crane, ABC decides to start providing these customers with an employee to operate the crane. The employee will operate under the direction of ABC with ABC retaining dominion and control over the crane. Does ABC owe use tax on the crane, and if so, what is the measure of the use tax?

ABC owes use tax upon the first use of the crane as a consumer. This occurred in the third year of ownership when ABC began supplying an operator. The measure of the tax is the retail market value of the crane at the time it is put to use by ABC.

(e) Farm Services, Inc. specializes in the cutting and baling of hay for farmers. The hay, after being cut and baled, is sold by the farmer. Farm Services is not making a retail rental of equipment with operator, but is engaged in a farming for hire activity which is taxable under the service and other business activities B&O tax classification. See WAC 458-20-209.

(f) Helicopter, Inc. contracts with Logs, Inc. to move logs from where they have been cut in the woods to a landing approximately one mile away where the logs will be sorted, loaded on trucks, and transported to a mill. Total control over the helicopter operation rests with Helicopter, Inc. This is not a rental of equipment with an operator, nor is it considered as an air transportation service. This activity is directly part of the timber extracting and harvesting activity and is taxable as extracting for hire.

(g) ABC Sound Productions provides lighting, amplifying equipment, and speakers as part of the services it sells to

entertainment promoters. ABC also provides several operators of the equipment. This is a rental of equipment with operator. In applying the true object test, the promoter is primarily purchasing the use of the lighting and sound equipment. The performer or promoter could be expected to specify the color, location, and degree of lighting and may also request changes and modifications to the level of sound amplification during the performance.

(h) John Doe purchased a vessel which will be rented to others as a bare boat rental. The rentals will be arranged through an agent at a marina. The marina receives a commission based on any usage of the vessel, including usage by the owner. The rental of the boat is a retail sale when the boat is rented to others. The usage of the boat by John Doe is not a rental. Since John Doe will be using the boat at times for his own use, he may not purchase the boat for resale.

**WSR 96-03-141**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**SECRETARY OF STATE**  
[Filed January 24, 1996, 9:25 a.m.]

Date of Adoption: January 24, 1996.

Purpose: Implement the amendments in chapter 20, Laws of 1995 1st sp. sess. to the statutes on the presidential primary in chapter 29.19 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-75-170, 434-75-200 and 434-75-300; and amending WAC 434-75-010 through 434-75-160, 434-75-180, 434-75-190, 434-75-210 through 434-75-290, and 434-75-310 through 434-75-350.

Statutory Authority for Adoption: RCW 29.19.070.

Adopted under notice filed as WSR 95-23-117 on November 22, 1995.

Changes Other than Editing from Proposed to Adopted Version: Deleted obsolete definition of "members of a political party"; eliminated a proposed amendment to change the deadline for designation of presidential candidates from ninety days to sixty days; corrected the language of the oath for the democratic party; specified procedures for phone requests for absentee ballots; clarified the requirement for separate voting devices in each polling place, the procedure for tabulation of write-in votes and the requirement for the retention of notations of a political party declaration on the automated voter registration file.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 32, repealed 3.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 9, repealed 1.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 32, repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 15, repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making:

New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 32, repealed 3.

Effective Date of Rule: Thirty-one days after filing.  
January 24, 1996  
Donald F. Whiting  
Assistant Secretary of State

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

**WSR 96-03-150**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5091—Filed January 24, 1996, 10:54 a.m.]

Date of Adoption: January 24, 1996.

Purpose: The rule will increase the grower assessment from 3.5¢ per pound to 5¢ per pound of mint oil, and eliminate the restrictions to collect assessments of mint oil if unexpected moneys on deposit with the board of the mint commission exceeds total assessments received during that fiscal year.

Citation of Existing Rules Affected by this Order: Amending WAC 16-540-040.

Statutory Authority for Adoption: RCW 15.65.050.

Adopted under notice filed as WSR 95-20-084 on October 4, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
January 24, 1996  
Jim Jesernig  
Director

**AMENDATORY SECTION** (Amending Order 1823, filed 5/2/84)

**WAC 16-540-040 Assessments and collections. (1) Assessments.**

(a) The fixed annual assessment on all varieties of mint oil subject to this marketing order shall be ~~((three and one-half))~~ five cents per pound of oil as weighed by first purchaser.

(b) First purchasers shall collect assessments at time of payment for oil, from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board. Producers and producer-

handlers who ship their oil direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes. ~~((However, if at the end of any fiscal year, the unexpended moneys on deposit with the board shall exceed the total assessments received during that fiscal year, no assessment shall be levied during the next succeeding fiscal year.))~~

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**WSR 96-03-151**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 5090—Filed January 24, 1996, 10:55 a.m.]

Date of Adoption: January 24, 1996.

Purpose: The rule will eliminate the restrictions to collect assessments on alfalfa seed if unexpected moneys on deposit with the board of the Alfalfa Seed Commission exceeds the total assessments received during that fiscal year.

Citation of Existing Rules Affected by this Order: Amending WAC 16-529-150.

Statutory Authority for Adoption: RCW 15.65.050.

Adopted under notice filed as WSR 95-20-085 on October 4, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 1996

Jim Jesernig  
Director

Recently Enacted State Statutes: New 3, amended 6, repealed 7.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 5, amended 21, repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, amended 21, repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 1996

Christine O. Gregoire  
Attorney General

**AMENDATORY SECTION** (Amending Order 1, filed 3/13/75, effective 7/1/75)

**WAC 16-529-150 Collections.** Any moneys collected or received by the board pursuant to the provisions of this chapter during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes. ~~((However, if at the end of any fiscal year, the unexpended moneys on deposit with the board shall exceed the total assessments received during that fiscal year, no assessment shall be levied during the next succeeding fiscal year.))~~

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

**WSR 96-03-155**

**PERMANENT RULES**

**ATTORNEY GENERAL**

[Filed January 24, 1996, 11:40 a.m.]

Date of Adoption: January 12, 1996.

Purpose: Accomplish reasoned and predictable procedures for the administration of: The Lemon Law program; dispute mechanism; compliance with arbitration awards; and enforcement of statutory disclosures upon resale.

Citation of Existing Rules Affected by this Order: Repealing WAC 44-10-165, 44-10-220, 44-10-230 and 4-10-320; and amending WAC 44-10-010, 44-10-030, 44-10-040, 44-10-050, 44-10-060, 44-10-070, 44-10-080, 44-10-090, 44-10-100, 44-10-110, 44-10-120, 44-10-130, 44-10-140, 44-10-150, 44-10-160, 44-10-170, 44-10-180, 44-10-200, 44-10-210, 44-10-300, and 44-10-310.

Statutory Authority for Adoption: RCW 19.118.080 (2) and (7), 19.118.061, section 4, chapter 254, Laws of 1995.

Adopted under notice filed as WSR 95-23-099 on November 21, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

**WSR 96-03-009**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**

[Filed January 5, 1996, 8:23 a.m.]

Date of Adoption: November 8, 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 Title 222 WAC, WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, 222-30-100, 222-38-020 and 222-38-030; and new sections WAC 222-30-065 and 222-30-075.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 RCW.

Under 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.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 9, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

November 29, 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.

"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.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements

under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or

preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction

or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Northern spotted owl site center"** means the location documented by the department of fish and wildlife for Status 1, 2 or 3 northern spotted owls. The department shall rely upon the department of fish and wildlife for the determination of status based on the following definitions:

**Status 1** Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

**Status 2** Two birds, pair status unknown - the presence or response of 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.

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.

**"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

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 92-15-011, 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.

(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 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 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 outslowing or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

\***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

\***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

\***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be

deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

**(10) Disturbance avoidance.** Road construction, operation of heavy equipment and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

**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.

\*(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 96-03-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-02—Filed January 5, 1996, 2:05 p.m.]

Date of Adoption: January 5, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300C and 220-52-07300D; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable surplus of nontreaty green sea urchins exists.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 5, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

NEW SECTION

**WAC 220-52-07300D Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 3 and 4 are open only on January 10, 1996. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300C Sea urchins. (95-191)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. January 10, 1996:

WAC 220-52-07300D Sea urchins. (96-02)

**WSR 96-03-045**  
**EMERGENCY RULES**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**  
(Community Development)  
[Filed January 11, 1996, 12:04 p.m.]

Date of Adoption: January 11, 1996.

Purpose: To adopt procedural rules for application for and distribution of grants to cities and counties from the growth management planning and environmental review fund.

Statutory Authority for Adoption: RCW 36.70A.500 and 43.21C.240.

Under 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 Growth Management Act in RCW 36.70A.010 states "that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state." The Department of Community, Trade and Economic Development is required by RCW 36.70A.500 to provide management services for the growth management planning and environmental review fund. This fund was created to assist local governments in integrating growth management planning and environmental review. Under RCW 36.70A.500 the department must adopt rules for management of the fund.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 6, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 11, 1996  
Ann Bariiekman  
Rules Coordinator

EMERGENCY



**Chapter 365-185 WAC  
PROCEDURES FOR MANAGEMENT OF GROWTH  
MANAGEMENT PLANNING AND ENVIRONMENTAL  
REVIEW FUND**

**NEW SECTION**

**WAC 365-185-010 Purpose and authority.** (1) The purpose of this chapter is to outline the conditions and procedures by which the department of community, trade, and economic development will make available grants from the growth management planning and environmental review fund to local governments required to plan or have chosen to plan under RCW 36.70A.040 to assist them in complying with RCW 43.21C.240, 36.70B.050, 36.70B.060, and 36.70B.090.

(2) This activity is undertaken pursuant to RCW 36.70A.500 and 43.21C.240.

**NEW SECTION**

**WAC 365-185-020 Definitions.** (1) "Applicant" means a local government that has submitted an application for a grant from the growth planning and environmental review fund.

(2) "Contractor" means an applicant which has executed a contract for receipt of growth management planning and environmental review funds with the department.

(3) "Department" means the department of community, trade, and economic development.

(4) "Growth management planning and environmental review fund" means the growth management planning and environmental review fund established pursuant to RCW 36.70A.490.

(5) "Integrated permit process" means a system for integrating environmental review with review of project permits, consistent with RCW 36.70B.050 and 36.70B.060.

(6) "Integrated plan" means a detailed environmental impact statement that is integrated with a comprehensive plan or subarea plan and development regulations.

(7) "Local government" means a city or county that is required or has chosen to plan under RCW 36.70A.040 and 43.21C.240.

**NEW SECTION**

**WAC 365-185-030 Eligibility criteria.** (1) A grant may be awarded to a local government that is qualified pursuant to this section.

(2) A grant may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant shall be provided to assist a county or city in paying for the cost of preparing a detailed environmental impact statement that is integrated with a comprehensive plan or subarea plan and development regulations.

(3) In order to qualify for a grant, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW that is integrated with a comprehensive plan or subarea plan and development regulations;

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to

allow the analysis to be adopted in whole or in part by subsequent applicants for development permits within the geographic area analyzed in the plan;

(c) Include mechanisms in the plan to monitor the consequences of growth as it occurs in the plan area and provide ongoing data to update the plan and environmental analysis;

(d) Be making substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed to not be making substantial progress towards compliance; and

(e) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

(b) Comprehensive and subarea plan proposals that are designed to identify and monitor system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

(c) Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans;

(d) Programs for effective citizen and neighborhood involvement that contribute to greater certainty that planning decisions will be implemented; and

(e) Plans that identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans.

**NEW SECTION**

**WAC 365-185-040 Grant application process.** (1) Applications for growth management planning and environmental review funds shall be filed with the department.

(2) The department will specify the form and manner of application and will set the date and time for receipt of applications.

(3) Applications shall be filed in the form, manner and time specified by the department. Failure of an applicant to make application in the specified form, manner and time will cause the applicant to be ineligible for grant funds.

(4) Applications for grant funds shall contain a detailed strategy, budget, and timeline for meeting the department's application requirements.

(5) The department will review each application for eligibility under the criteria specified in WAC 365-200-030.

(6) In awarding grants, the department may consider:

(a) An applicant's ability and intent to develop an integrated planning process that will have applicability to jurisdictions with similar characteristics;

(b) A geographic balance of communities;

(c) A balance of urban and rural communities;

(d) A variety of permit processes;

(e) Diversity in population; or

(f) Other criteria that the department considers advisable.

(7) Applicants will be notified in writing of the department's decisions on grants.

(8) The department may offer a contract to an applicant with such reasonable terms and conditions as the department may determine.

#### NEW SECTION

**WAC 365-185-050 Grant evaluation procedure.** The department should appoint a committee to assist it in evaluating the applications. The committee may include:

- (1) Department staff;
- (2) Department of ecology staff;
- (3) Representatives of cities and counties; or
- (4) A representative of private business.

#### NEW SECTION

**WAC 365-185-060 Method of payment.** (1) Grant allocations from the fund will be paid subject to the provisions of the applicable contract.

- (2) All grant funds will be disbursed by June 30, 1997.

**WSR 96-03-050  
EMERGENCY RULES  
DEPARTMENT OF HEALTH**

[Filed January 12, 1996, 3:37 p.m.]

Date of Adoption: January 10, 1996.

Purpose: To amend the national physical therapy examination passing score.

Citation of Existing Rules Affected by this Order:  
Amending WAC 246-915-030.

Statutory Authority for Adoption: RCW 18.74.023.

Under 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: National examination standards have recently changed to criterion-referenced scoring. With a state-wide shortage of physical therapists, Washington's current exam score standard places artificial barriers in the way of highly trained therapists preventing access to health care in underserved areas of the state.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1996

Carol Neva

Program Manager

#### AMENDATORY SECTION (Amending Order 294B, filed 8/4/92, effective 9/4/92)

**WAC 246-915-030 Examination.** (1) The examination acceptable to and approved for use under the provisions of RCW 18.74.035 shall be the examination for physical therapists as reviewed and approved by the board of physical therapy. A passing score is considered to be one of the following:

(a) The criterion referenced passing point recommended by the Federation of State Boards of Physical Therapy for the examination approved by the board beginning November 8, 1995. The passing point shall be set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

(b) Not less than sixty-eight percent of the raw score for the examination approved by the board beginning February 28, 1991, through July 12, 1995; or

~~((b))~~ (c) Not less than sixty percent raw score on each of the three examination parts for the examination approved by the board prior to February 28, 1991.

(2) If a candidate fails to receive a passing score on the examination, he or she will be required to retake the examination.

(3) Where necessary, applicant's score will be rounded off to the nearest whole number.

**WSR 96-03-053  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Wildlife)**

[Order 96-04—Filed January 12, 1996, 3:50 p.m.]

Date of Adoption: January 12, 1996.

Purpose: Game fish rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 232-28-61900K; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under 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.

Purpose: Emergency changes to the 1996 Winter steelhead fishing regulations.

Reasons for this Finding: Item 1: The Green River wild winter-run steelhead escapement goal is 2,000. The 1996 wild runsize is predicted to be 2,151, allowing a harvestable number of only 151 wild steelhead. The January 16th wild steelhead release regulations will protect wild spawners, while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend past January 19, 1996.

Items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12: The Snohomish River system wild winter-run steelhead escape-

ment goal is 6,500. The 1996 wild runsize is predicted to be 8,362, allowing a harvestable number of 1,862 wild steelhead. The February 16th wild steelhead release regulations will protect wild spawners, while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend past January 20, 1996.

Item 13: The predicted 1995 return to the system is 1,580 wild winter-run steelhead, 420 fish below the escapement goal of 2,000 spawners. Hatchery winter-run steelhead are not planted in the system, therefore a hatchery steelhead fishery does not exist and the river should be closed to all game fish as soon as possible (January 16, 1996).

Item 14: The predicted wild winter steelhead runsize for 1995-96 is expected to be between 8,800 and 10,800. The state and the Skagit River tribes (Skagit Cooperative) are developing an escapement goal for the system. Until the goal is finalized both parties have agreed that a sixteen percent combined harvest rate will be used for harvest management planning. In an effort not to exceed the sixteen percent harvest rate, the tribal fishery will end during management week 8 (2/18 to 2/24) and the sport fishery will need to go to wild steelhead release regulations on March 1, 1996. The hatchery winter steelhead sport fishery will proceed uninterrupted.

Item 15: In an attempt to manage the wild winter-run steelhead resource in a balanced region-wide manner, the Stillaguamish River is being proposed for wild steelhead release regulations March 1, 1996. Although the escapement of wild steelhead to in the North Fork Stillaguamish River index area has consistently exceeded the escapement goal. In past years when surrounding rivers have been placed on emergency wild steelhead release regulations there has been concern about a shift in sport angler effort to the Stillaguamish River. The angler shift and associated wild harvest could potentially decrease the number of spawning fish to below the spawning objective. In the past there has been considerable public concern about not achieving this spawning objective.

Item 16 and 17: The predicted wild runsize for 1995-96 is 2,202. With the interim wild steelhead escapement goal of 2,000 spawners, the harvestable number of steelhead is 202. The January 16th wild steelhead release regulations will protect wild spawners while allowing hatchery steelhead to be harvested. The tribal net fishery will not extend beyond management week 3 (1/14 to 1/20).

Item 18: The open season dates for the White River were listed erroneously in the 1995-95 sport fishing rules pamphlet. This emergency regulation will correct the open dates and protect wild winter-run steelhead until the 1996-97 regulations take effect on May 1, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 12, 1996  
Dean A. Lydig  
for Mitch Johnson  
Chairman

NEW SECTION

**WAC 232-28-61900K 1995-96 and 1996-97 Washington game fish seasons and catch limits—Green River, Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Nisqually River, Skagit River, Stillaguamish River, Puyallup River and Carbon River.** Notwithstanding the provisions of WAC 232-28-619, effective January 16, 1996, the following regulations apply:

- Item 1: Green River (King Co.) From the mouth to the SR 167 Freeway Bridge: Wild Steelhead Release January 16, 1996-February 29, 1996.  
From SR 167 Freeway Bridge to Tacoma Headworks Dam: Wild Steelhead Release January 16, 1996 - February 29, 1996.
- Item 2: Snohomish River All channels, sloughs and inter-connected waterways (excluding all tributaries) from Puget Sound to Highway 529: Wild Steelhead Release February 16, 1996 - April 30, 1996.  
From Highway 529 upstream (all channels): Wild Steelhead Release February 16, 1996 - March 31, 1996.
- Item 3: Snoqualmie River From the mouth to falls: Wild Steelhead Release February 16, 1996 - March 31, 1996.
- Item 4: Skykomish River (Mainstem) From the mouth to mouth of Sultan River: Wild Steelhead Release February 16, 1996 - February 29, 1996.  
From the mouth of the Sultan River to the forks: Wild Steelhead Release February 16, 1996 - February 29, 1996.
- Item 5: Skykomish River (North Fork) From the mouth to 1000' downstream from Bear Creek Falls: Wild Steelhead Release February 16, 1996 - February 29, 1996.

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EMERGENCY

- Item 6: Skykomish River (South Fork) From the mouth to 600' downstream from the Sunset Falls Fishway: Wild Steelhead Release February 16, 1996 - February 29, 1996. Highway: Wild Steelhead Release March 1, 1996 - April 30 1996.
- Item 7: Wallace River From the mouth to mouth of Olney Creek: Wild Steelhead Release February 16, 1996 - February 29, 1996. From Warm Beach-Stanwood Highway upstream to forks: Wild Steelhead Release March 1, 1996 - March 31, 1996.
- Item 8: Sultan River From the mouth to a point 400' downstream from the diversion dam at river mile 16: Wild Steelhead Release February 16, 1996 - February 29, 1996. Item 16: Puyallup River From the mouth to Electron power plant outlet: Wild Steelhead Release January 16, 1996 - January 31, 1996.
- Item 9: Pilchuck River From the mouth to 500' downstream from the Snohomish City diversion dam: Wild Steelhead Release February 16, 1996 - February 29, 1996. Item 17: Carbon River From the mouth to Highway 162 Bridge Wild Steelhead Release January 16, 1996 - January 31, 1996.
- Item 10: Tolt River From the mouth to the USFS trolley cable near the confluence of the North and South Forks: Wild Steelhead Release February 16, 1996 - February 29, 1996. Item 18: White River From the mouth to R Street SE Bridge in Auburn: Wild Steelhead Release January 16, 1996 - February 29, 1996. Closed to fishing for all game fish March 1, 1996 - April 30, 1996.
- Item 11: Raging River From the mouth to the Highway 18 Bridge (three miles upstream from Preston): Wild Steelhead Release February 16, 1996 - February 29, 1996. From the R Street SE Bridge in Auburn to the Weyerhaeuser 6000 Road Bridge: Closed to fishing for all game fish January 16, 1996 - April 30, 1996.
- Item 12: Tokul Creek From the mouth to the posted cable boundary marker located approximately 700' upstream from the mouth: Wild Steelhead Release February 16, 1996 - March 31, 1996. All other provisions of WAC 232-28-619 relating to the above waters remain in effect and unchanged.
- Item 13: Nisqually River From the mouth to 400' below LaGrande Powerhouse: Closed to fishing for all game fish January 16, 1996 - March 31, 1996. 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.
- Item 14: Skagit River From the mouth to pipeline crossing at Sedro Woolley: Wild Steelhead Release March 1, 1996 - March 31, 1996. From pipeline crossing at Sedro Woolley to Bacon Creek: Wild Steelhead Release March 1, 1996 - March 15, 1996. **REPEALER**  
The following section of the Washington Administrative Code is repealed effective May 1, 1996:  
WAC 232-28-61900K 1995-96 and 1996-97 Washington game fish seasons and catch limits-Green River, Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuk River, Tolt River, Raging River, Tokul Creek, Nisqually River, Skagit River, Stillaguamish River, Puyallup River and Carbon River.
- Item 15: Stillaguamish River All sloughs downstream of Warm Beach-Stanwood Reviser's note: The spelling error in the above Repealer occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 96-03-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Wildlife)

[Order 96-03—Filed January 12, 1996, 3:51 p.m.]

Date of Adoption: January 12, 1996.

Purpose: Game fish rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 232-28-61900L; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to account for leap day.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 12, 1996

Dean A. Lydig  
 for Mitch Johnson  
 Chairman

NEW SECTION

**WAC 232-28-61900L Regional exceptions to permanent game fish rules.** Notwithstanding the provisions of WAC 232-28-619 all seasons having a closing date of February 28, 1996 are hereby extended to February 29, 1996.

REPEALER

The following section of the Washington Administrative Code is repealed effective March 1, 1996:

WAC 232-28-61900L Regional exceptions to permanent game fish rules.

**WSR 96-03-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 96-05—Filed January 12, 1996, 3:53 p.m., effective January 12, 1996, 11:59 p.m.]

Date of Adoption: January 12, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to comply with the Order on Motion to Enforce Interim Agreement from Judge Edward Rafeedie, Civil No. 9213, Subproceeding 89-3, issued January 12, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: January 12, 1996, 11:59 p.m.

January 12, 1996  
 Judith Freeman  
 Deputy  
 for Robert Turner  
 Director

NEW SECTION

**WAC 220-52-04600M Crab seasons and areas.** Notwithstanding the provisions of WAC 220-52-046:

(1) Effective 11:59 p.m. January 12, 1996, through March 31, 1996, it is unlawful for any non-Indian fisher to retain crab taken for commercial purposes from those waters inside the 25 fathom meander line as measured at mean low water extending from latitude 47°40'50" N. (Destruction Island) to latitude 48°02'15" N. (The southern boundary of the Makah Indian tribes's usual and accustomed area).

(2) Effective 11:59 p.m., January 15, 1996 through March 31, 1996 it is unlawful for any non-Indian fisher to have crab gear in the water inside the 25 fathom meander line as measured as mean low water extending from latitude 47°40'50"N. (Destruction Island) to latitude 48°02'15" N.

(the southern boundary of the Makah Indian tribes usual and accustomed area).

**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 96-03-072**  
**EMERGENCY RULES**  
**EXECUTIVE ETHICS BOARD**

[Filed January 17, 1996, 11:16 a.m.]

Date of Adoption: January 12, 1996.

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).

Under 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 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 under RCW 42.52.360 (2)(b) while it continues going through the process of adopting permanent rules, which it is in the process of completing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 10, 1996

Barbara Cook

Secretary to 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 (360) 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 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 of 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 be reduced by the amount of costs paid.

**WSR 96-03-083  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Wildlife)**

[Order 96-06—Filed January 18, 1996, 11:10 a.m.]

Date of Adoption: December 9, 1995.

Purpose: To repeal WAC 232-12-829 which is being replaced with WAC 232-12-828.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-12-829.

Statutory Authority for Adoption: RCW 77.12.010 and 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To eliminate public confusion over duplication of WACs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 12, 1996

Mitchell S. Johnson, Chairman  
Fish and Wildlife Commission

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-829 Hunting of game animals by persons of disability.

**WSR 96-03-092**

**EMERGENCY RULES**

**APPRENTICESHIP AND TRAINING COUNCIL**

[Filed January 19, 1996, 10:55 a.m.]

Date of Adoption: January 19, 1996.

Purpose: Clarify agency procedures to remove the term "nonjoint" which was improperly adopted.

Citation of Existing Rules Affected by this Order: Amending WAC 296-04-270.

Statutory Authority for Adoption: RCW 49.04.010 and 49.04.040.

Under 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 relevant portions of WAC 296-04-270 were improperly adopted based upon a contingency which never occurred. Upon the advice of counsel, the agency has not relied upon these provisions in its decision making. The amendment is necessary to inform the public and interested parties. The council will review the entirety of chapter 296-04 WAC and propose further rules in observance with notice and opportunity to comment [on] requirements of permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

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Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 19, 1996

Frank Forrest

Chair

**AMENDATORY SECTION** (Amending WSR 95-07-117, filed 3/21/95)

**WAC 296-04-270 Apprenticeship agreements—Types—Standards—Registration, review, cancellation, reregistration—Certificate of completion.** (1) The following apprenticeship agreements shall be recognized pursuant to RCW 49.04.060:

(a) A written agreement between an association of employers and an organization of employees describing the conditions of training for apprentices.

(b) A written statement of an employer or a written agreement between an employer and an employee organization describing the conditions of training apprentices. The former agreement shall be recognized only if there is no bona fide employee organization in the plant affected by the agreement.

(c) A written agreement between an employer and an individual apprentice describing the conditions of apprenticeship.

(d) Group-joint, or area joint program where there is a labor organization. A program jointly sponsored by a group of employers and a labor organization administered by a joint apprenticeship and training committee (JATC) equally composed from management and labor.

(e) Individual-joint, a program where there is a labor organization. A program jointly sponsored by an individual employer and a labor organization administered by a joint apprenticeship and training committee (JATC) composed equally from management and labor.

~~((f) Group nonjoint, or area group program where there is no labor organization. A program sponsored by a group of employers administered by an apprenticeship committee.))~~

~~((g) Individual nonjoint, a program where there is no labor organization. A program sponsored and administered by an individual employer not jointly sponsored with a labor organization.))~~

~~((h))~~ (f) Group waiver, a program with more than one firm (a group of employers) where either the employer group or the labor organization has voluntarily waived participation and has so notified the other party in writing.

~~((i))~~ (g) Individual waiver, a program involving an individual person, company, plant, firm, and a labor organization where management or labor has voluntarily waived participation and has so notified the other party in writing.

~~((j) Nonjoint and waived))~~ (h) Waivered committees shall be composed of representatives of which fifty percent shall by reason of education and experience be occupationally qualified in the specific occupation specified in the standards for which the committee is responsible.

~~((k))~~ (i) The council shall only recognize ~~((nonjoint and))~~ waived standards for a specific occupation or directly related occupations. When multiple related occupations are approved on a single standard, each occupation shall be considered as an individual standard. Unrelated occupations shall be submitted under separate standards.

(2) Apprenticeship agreements shall conform to the following standards:

(a) Committee programs, plant programs, and on-the-job training programs must contain the provisions required by RCW 49.04.050 and, in addition, shall contain:

(i) Provision for nondiscrimination in the selection of apprentices in substantially the following form:

Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge: "The recruitment, selection, employment and training of apprentices during their apprenticeship shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required by the rules of the Washington state apprenticeship and training council and Title 29, Part 30 of the Code of Federal Regulations."

(ii) Provision that there shall be no discrimination on the basis of race, color, creed, sex, or national origin after selection during all phases of employment during apprenticeship.

(iii) Provision that adequate records of the selection process must be kept for a period of at least five years and will be made available to the council or its designated representative on request. Such records must include a brief summary of any interviews and the conclusions reached on each of the specific factors which are part of the total judgment concerning each applicant.

(iv) Provision for local committee rules and regulations consistent with these rules and the applicable apprenticeship agreement.

(b) Any proposed standards for apprenticeship must be consistent with any standards for apprenticeship already approved by the council for the industry, craft or trade in question to the end that there is general statewide uniformity of such standards in each industry, trade or craft. Proposed standards shall be considered consistent if they are equal to or exceed the average number of hours and do not exceed the maximum number of hours for such trade, craft, or occupation within this state. In addition, the course content and delivery method are similar to the extent that they are designed to achieve the same levels of skills as existing standards within the state for that industry, trade, or craft.

(c) Shall contain a statement of the progressively increasing scale of wages based on specified percentages of a specific wage which shall be submitted to the council and updated no less than annually.

(d) A sample apprenticeship agreement which the council approves is available on request from the supervisor.

(3) Registration, review, cancellation, reregistration.

(a) All individual agreements shall be registered with the supervisor and subject to his approval.

(b) The supervisor and his staff, in the performance of their field work, shall conduct a systematic review of all plant and committee programs and shall take appropriate action, including recommendation of cancellation, when they

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find that any program is not being operated according to these rules and regulations or according to its applicable standards.

(c) When any program is found to be operating in a manner inconsistent with or contrary to these rules and regulations or its established plant or committee program, the supervisor shall notify the offending committee, person, firm or agency of the violation. If the supervisor does not receive notice, within 60 days, of action taken to correct such violations, the supervisor may take whatever action he deems necessary, including recommendation of cancellation of the apprenticeship or training program and agreement to the council.

(d) If the supervisor deems it necessary to recommend cancellation of an apprenticeship or training program, he shall do so in writing to each council member, stating in detail the reasons for his recommendation. A copy of said recommendation shall be mailed to the last known address of each member of the committee administering said program, or to those persons responsible for said program, together with notice that the council shall consider the recommendation at its next regularly scheduled meeting more than 30 days subsequent to the date of the recommendation and that all interested persons may present evidence or testimony regarding said recommendation. The council shall decide the question before it upon majority vote of the members present and voting and shall notify all interested parties of its decision, together with the reasons for it, in writing.

(e) The cancellation of any program or agreement shall automatically effect a cancellation of any agreement registered thereunder, provided that any organization or firm not responsible for the violations causing the cancellation may petition the council for approval of such cancelled agreement or program as a new program.

(f) Certificates of completion shall be issued at the request of the appropriate committee. An affidavit of the secretary, chair, or authorized official of the committee concerned shall accompany the request, which affidavit shall state that the apprentice has successfully completed the apprenticeship program of that committee, and that he/she has been an active, registered participant of that committee's program for at least six months.

**WSR 96-03-104  
EMERGENCY RULES  
HEALTH CARE AUTHORITY**

[Filed January 22, 1996, 11:40 a.m.]

Date of Adoption: January 22, 1996.

Purpose: Rule is designed to carry out the purposes of chapter 70.47 RCW, the Health Care Access Act.

Citation of Existing Rules Affected by this Order: Amending WAC 55-01-010, 55-01-020, 55-01-030, 55-01-040, 55-01-050, 55-01-060, and 55-01-070.

Statutory Authority for Adoption: RCW 70.47.050.

Under 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: To accommodate revisions in the provisions for Medicaid/Basic Health Plan eligibility coordination in the Health Services Act, E2SSB 5304.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 5, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 5, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

January 22, 1996  
Elin S. Meyer  
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

**WSR 96-03-140  
EMERGENCY RULES  
OFFICE OF THE  
SECRETARY OF STATE**  
[Filed January 24, 1996, 9:22 a.m.]

Date of Adoption: January 24, 1996.

Purpose: Implement the amendments in chapter 20, Laws of 1995 1st sp. sess. to the statutes on the presidential primary in chapter 29.19 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-75-170, 434-75-200 and 434-75-300; and amending WAC 434-75-010 through 434-75-160, 434-75-180, 434-75-190, 434-75-210 through 434-75-290, and 434-75-310 through 434-75-350.

Statutory Authority for Adoption: RCW 29.19.070.

Under 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 affect the administrative procedures leading up to the presidential primary on March 26, 1996. The adoption of emergency rules simultaneously with permanent rules provided additional opportunity for comment by and consultation with county auditors and political parties.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 32, repealed 3.

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Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 9, repealed 1.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 32, repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 15, repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 32, repealed 3.

Effective Date of Rule: Immediately.

January 24, 1996

Donald F. Whiting

Assistant Secretary of State

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-04 Issue of the Register.

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**WSR 96-03-006**  
**NOTICE OF PUBLIC MEETINGS**  
**ECONOMIC DEVELOPMENT**  
**FINANCE AUTHORITY**  
 [Memorandum—January 2, 1996]

Date	Time	Location
March 19 (or the first Tuesday following the end of the legislative session, if the session is extended beyond this date)		
	9:00 a.m.	World Trade Club, Main Terminal Building, Sea-Tac International Airport, SeaTac, Washington
June 4	9:00 a.m.	World Trade Club, Main Terminal Building, Sea-Tac International Airport, SeaTac, Washington
September 10	9:00 a.m.	World Trade Club, Main Terminal Building, Sea-Tac International Airport, SeaTac, Washington
December 10	9:00 a.m.	World Trade Club, Main Terminal Building, Sea-Tac International Airport, SeaTac, Washington

All Washington Economic Development Finance Authority board meetings are open to the public. Washington Economic Development Finance Authority meeting locations are fully accessible to persons with disabilities and this publication is available in alternate format on request; accommodations may be arranged with a minimum of ten working days notice to Jonathan Hayes at (206) 389-2559, or TDD (360) 753-2200.

**WSR 96-03-008**  
**NOTICE OF PUBLIC MEETINGS**  
**GREEN RIVER**  
**COMMUNITY COLLEGE**  
 [Memorandum—December 29, 1995]

The board of trustees of Green River Community College will meet the third Thursday of each month as follows:

- January 18
- February 15
- March 21
- April 18
- May 16
- June 20
- July 18
- August 15
- September 19
- October 17
- November 21
- December 19

The board of trustees of Community College District No. 10 does hereby set the regular meeting dates for the board of trustees on the third Thursday of each month, commencing

at 4:00 p.m., in the Board Room of the Administration Building, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

**WSR 96-03-010**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
 [Memorandum—January 3, 1996]

The Design Committee of the Washington State Convention and Trade Center (WSCTC) will meet on Wednesday, January 10 from 9:00 a.m. to 1:00 p.m. and on Friday, January 26 from 9:00 a.m. to 1:00 p.m. These two meetings will be held at LMN Architects, the Norton Building, 801 Second Avenue, 5th Floor, Seattle, WA, 682-3460.

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on Wednesday, January 10 at 1:30 p.m. in Room 303 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

**WSR 96-03-011**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Dry Pea and Lentil Commission)  
 [Memorandum—December 29, 1995]

The Washington Dry Pea and Lentil Commission would like to list its regular meeting schedule with you for 1996.

- March 21, 1996
- June 20, 1996
- September 19, 1996
- December 19, 1996

The meetings are held at the Industry Stateline Office, 5071 Highway 8 West, Moscow, ID, starting at 9:00 a.m.

The meeting regularly scheduled for December 1995 was postponed to January 11, 1996, at 9:00 a.m.

**WSR 96-03-015**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING AND**  
**EDUCATION COORDINATING BOARD**  
 [Memorandum—January 4, 1996]

THE GOVERNOR'S TASK FORCE  
 ON SCHOOL-TO-WORK TRANSITION  
 QUARTERLY MEETING  
 JANUARY 16, 1996  
 8:30 A.M. TO 10:30 A.M.

In The World Trade Center's  
 Main Conference Room  
 Sea-Tac Airport

MISCELLANEOUS

(The main conference room is located above the Continental Airline ticketing counter on the south end of the main terminal on the Mezzanine level.)

The task force will discuss plans and progress towards implementing Washington state's school-to-work transition system.

The meeting site is barrier free. People needing special accommodations, please call Jan Hills at least ten days in advance at (360) 586-4530.

**WSR 96-03-017**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Fryer Commission)  
 [Memorandum—January 8, 1996]

1996 Commission Meeting Schedule

Day	Date	Time	Location
Wednesday	February 7, 1996	10:00 a.m.	RCC*
Thursday	May 9, 1996	10:00 a.m.	RCC*
Tuesday	August 6, 1996	10:00 a.m.	RCC*
Wednesday	October 9, 1996	10:00 a.m.	RCC*
(Agency presentation for 1997 advertising)			
Thursday	November 7, 1996	10:00 a.m.	RCC*
(Review of proposed budget for 1995 [1997])			

\*RCC - Renton Community Center located at 1715 S.E. Maple Valley Highway.

**WSR 96-03-018**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
 [Memorandum—January 4, 1996]

Listed below are the dates and geographical locations for the regular monthly meetings of the Puget Sound Water Quality Authority through June 1996.

The meetings generally start at 9:30 a.m., any variation from this starting time will be announced in advance. Persons interested in more information about the meetings are invited to call Duane Fagergren at 407-7303 (Lacey) or 1-800-SOUND [1-800-54-SOUND].

January 17, 1996	Olympia	Department of Ecology Southwest Regional Office Sawyer Hall 510 Desmond Drive Olympia
February 21, 1996	Shelton	Mason County PUD #3 307 West Cota Shelton
March 20, 1996	Olympia	Department of Ecology Auditorium - R0836 300 Desmond Drive Olympia
April 17, 1995 [1996]	Tacoma	Park District Headquarters Boardroom 4702 South 19th Street Tacoma

May 15, 1995 [1996] Port Townsend \*Port Townsend Public Library  
 1220 Lawrence Street  
 Port Townsend

\*Location still to be confirmed.

**WSR 96-03-019**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE PATROL**  
 (Training and Education Review Committee)  
 [Memorandum—January 8, 1996]

TRAINING AND EDUCATION REVIEW  
 COMMITTEE MEETINGS FOR 1996

This committee meets at the request of the Fire Protection Policy Board. The meetings will be held at the Washington State Patrol Fire Training Academy, 50310 S.E. Grouse Ridge Road, North Bend, WA 98504 [98045], (206) 453-3000. Meetings are held from 1 p.m. to 3 p.m. on the following dates:

1996 MEETING SCHEDULE

- February 6, 1996
- April 2, 1996
- June 4, 1996
- August 6, 1996
- October 1, 1996
- December 3, 1996

**WSR 96-03-020**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—January 8, 1996]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 18, 1996, 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 96-03-021**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 4, 1996]

Following is the meeting schedule for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Department of Medical Education

Meeting Dates	Location	Time
January 10, 1996	SCC-342	12-1:30
February 7, 1996	SCC-342	12-1:30
March 6, 1996	SCC-342	12-1:30
April 10, 1996	SCC-342	12-1:30
May 15, 1996	SCC-342	12-1:30
June 12, 1996	SCC-342	12-1:30

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July 10, 1996	SCC-342	12-1:30
August 7, 1996	SCC-342	12-1:30
September 11, 1996	SCC-342	12-1:30
October 9, 1996	SCC-342	12-1:30
November 6, 1996	SCC-342	12-1:30
December 11, 1996	SCC-342	12-1:30

Legislative Subcommittee, 4:00 p.m. - 5:00 p.m., Thursday, January 25, 1996, at the Tye Hotel.

Value Engineering Subcommittee, 5:00 p.m. - 6:00 p.m., Thursday, January 25, 1996, at the Tye Hotel.

Work Session, 7:00 p.m., Thursday, January 25, 1996, at the Tye Hotel.

Board Meeting, 9:00 a.m., Friday, January 26, 1996, at the Transportation Building, Commission Board Room, 1D2, 310 Maple Park Drive, Olympia.

Special Needs: For special accommodations or to request an auxiliary aid, please contact the Transportation Improvement Board office at (360) 705-7300 by January 19, 1996.

The next scheduled meeting is March 22, 1996, in Vancouver. A notice with further detail of the March meeting will be mailed March 1, 1996.

**WSR 96-03-022**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 4, 1996]

Following are the meeting schedules for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Oral Medicine  
Faculty Meetings

Meeting Dates	Location	Time
January 24, 1996	B317D HSB	12:30
February 28, 1996	B317D HSB	12:30
March 27, 1996	B317D HSB	12:30
April 24, 1996	B317D HSB	12:30
May 22, 1996	B317D HSB	12:30
June 26, 1996	B317D HSB	12:30
July 24, 1996	B317D HSB	12:30
August 28, 1996	B317D HSB	12:30
September 25, 1996	B317D HSB	12:30
October 23, 1996	B317D HSB	12:30
November 27, 1996	B317D HSB	12:30
December 18, 1996	B317D HSB	12:30

Psychosocial and Community  
Health Faculty Meeting

Meeting Dates	Location	Time
1st and 3rd Monday of each month	H.S.B. T-513	12:30 p.m. to 2:30 p.m.

Speech Communication  
Faculty Meeting

Meeting Dates	Location	Time
1st and 3rd Wednesday	221 Raitt	3:30

**WSR 96-03-023**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**  
 [Memorandum—January 5, 1996]

MEETING NOTICE FOR JANUARY 1996  
 TRANSPORTATION IMPROVEMENT BOARD  
 OLYMPIA, WASHINGTON 98504-0901

Increase Subcommittee, 1:00 p.m. - 4:00 p.m., Thursday, January 25, 1996, at the Tye Hotel, 500 Tye Drive, Olympia.

**WSR 96-03-027**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 96-01]

PROVIDING FOR THE TRANSFER OF CRIMINAL AND MAJOR ADMINISTRATIVE INVESTIGATIONS INVOLVING DSHS EMPLOYEES TO THE STATE PATROL

**WHEREAS**, State government must be fair and impartial in all matters and must treat its employees with the utmost respect and fairness; and

**WHEREAS**, in sensitive matters involving allegations of state employee misconduct or criminal behavior, the citizens of the state must be assured that a thorough and impartial investigation will be conducted and, where appropriate, disciplinary action or criminal prosecution will follow the findings of that investigation; and

**WHEREAS**, we must avoid even the appearance of unfairness in this process; and

**WHEREAS**, current employee investigations at the Department of Social and Health Services (DSHS) are conducted by an internal unit and there is a risk that these investigations may not appear to be completely fair due to the chance of conflict of interest or undue influence on the investigation; and

**WHEREAS**, the citizens of the State of Washington are entitled to know that DSHS employees are subject to impartial investigations by officers trained to distinguish between administrative and criminal matters and to develop cases for successful prosecution, and whose primary responsibilities are to conduct investigations of employee wrongdoing,

**NOW, THEREFORE, I, Mike Lowry, Governor of the state of Washington, by virtue of the authority invested in me, order and direct as follows:**

1. Effective today, DSHS - Office of Special Investigations (OSI) will no longer conduct all criminal and major administrative investigations involving DSHS employees. This consists of all employee investigations

MISCELLANEOUS

previously conducted by OSI - Special Investigations Unit. The Special Investigations Unit of OSI will be eliminated.

- 2. The Washington State Patrol (WSP) and DSHS will enter into an interagency agreement for criminal and major administrative investigations that involve DSHS employees. The criteria for cases to be transferred to the WSP will be as follows:
  - A. All alleged criminal cases constituting a violation deemed to be a gross misdemeanor or felony.
  - B. All major administrative investigations consisting of allegations of willful or wanton disregard for DSHS policies and procedures which would include but not be limited to the following: gross failure to perform essential job duties, failure to conform to law which would constitute a gross misdemeanor, allegations of abuse of position and any other cases deemed necessary by the Secretary of DSHS in consultation with the Chief of WSP.
- 3. Specific protocols for the referral of cases from DSHS to the WSP will be developed by the WSP in conjunction with management from DSHS. Once the protocols have been established the WSP will provide training to DSHS staff regarding their implementation.
- 4. All pending employee investigation cases in the Special Investigations Unit will be immediately transferred to the WSP for completion. This order excludes the activities of the Illegal Income Investigation (III) Team pending completion of its work.
- 5. In addition, DSHS staff will provide training to WSP investigators regarding unique issues relating to DSHS employees, clients, programs, policies or guidelines that might assist WSP in conducting both criminal and administrative investigations.
- 6. The investigations outlined above will be funded from the Department of Social and Health Services, OSI-Special Investigations Unit budget.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia on this 5th day of January, A.D., nineteen hundred and ninety-six.

Mike Lowry  
Governor of Washington

BY THE GOVERNOR:

Ralph Munro  
Secretary of State

**WSR 96-03-028**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE GOVERNOR**  
(Clemency and Pardons Board)  
[Memorandum—December 26, 1995]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its

regular meetings for 1996: March 1, June 7, September 6 and December 6, starting at 9:00 a.m. in the Governor's Office Conference Room, Second Floor, Legislative Building.

**WSR 96-03-029**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR**  
**VOLUNTEER FIREFIGHTERS**  
[Memorandum—January 5, 1996]

The January 1996 meeting of the State Board for Volunteer Firefighters has been rescheduled. The meeting will take place at 9:00 a.m. on January 19, 1996, in Suite 112 of the Olympia Forum Building, 601 11th Avenue S.E., not on January 22 as had been originally scheduled.

**WSR 96-03-030**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
(Farmed Salmon Commission)  
[Memorandum—January 8, 1996]

Pursuant to RCW 42.17.260, the following are the 1996 regular meeting dates for the Washington Farmed Salmon Commission, all to be held at the NMFS Montlake Lab West Building, Seattle, Washington, at 1:00 p.m.

- February 13
- April 9
- June 11
- September 10
- November 12

**WSR 96-03-034**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
(Forest Fire Advisory Board)  
[Memorandum—January 9, 1996]

The next scheduled meeting of the Forest Fire Advisory Board is Friday, February 9, 1996. The meeting will begin at 9:00 a.m. and will be held in Room 172 on the first floor of the Natural Resources Building, located at 1111 Washington Street S.E., in Olympia.

**WSR 96-03-035**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND AIR**  
**POLLUTION CONTROL AGENCY**  
[Memorandum—January 10, 1996]

- |  |                   |
|--|-------------------|
| BOARD OF DIRECTORS<br>REGULAR MONTHLY MEETINGS<br>MEETING DATES FOR 1996 |                   |
| REGULAR MONTHLY MEETINGS   | STUDY SESSIONS    |
| January 11, 1996   | February 22, 1996 |

MISCELLANEOUS



February 8, 1996  
 March 14, 1996  
 April 11, 1996  
 May 9, 1996  
 June 13, 1996  
 July 11, 1996  
 August 8, 1996  
 September 12, 1996  
 October 10, 1996  
 November 14, 1996  
 December 12, 1996

April 25, 1996  
 June 22, 1996  
 August 22, 1996  
 October 24, 1996  
 December 26, 1996

January 12, 1996  
 Sno-King Building  
 Boardroom 103  
 4:30 - 5:30

Notice is hereby given that the board of directors of the Puget Sound Air Pollution Control Agency will hold regular monthly meetings. The regular monthly meetings will be held at 9:00 a.m. at the Puget Sound Air Pollution Control Agency, 110 Union Street, Suite 500, Seattle, WA. Study sessions will be held at 9:30 a.m.

Board of director meetings and study sessions are open and public. Interested persons are invited to attend. More information can be obtained by calling (206) 689-4080 or 689-4079.

**WSR 96-03-036**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE PATROL**  
 (Regional Training Council)  
 [Memorandum—January 10, 1996]

SPECIAL MEETING  
 REGIONAL TRAINING COUNCIL MEETING

Tuesday, January 16, 1996  
 7:00 p.m. - 9:00 p.m.

Washington State Patrol  
 4811 Werner Road  
 Bremerton

Please direct your questions, comments, or proposed additions to agenda to Charles Chandler, Regional Deputy State Fire Marshal, (360) 504-6637.

**WSR 96-03-042**  
**NOTICE OF PUBLIC MEETINGS**  
**HARDWOODS COMMISSION**  
 [Memorandum—January 8, 1996]

There will be a meeting of the Washington State Hardwoods Commission on January 18, 1996, at 8:30 a.m. until completed at the Higher Education Coordinating Board Building, 917 Lakeridge Way S.W., Olympia, WA.

**WSR 96-03-043**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—January 11, 1996]

Board of Trustees Meeting  
 Special Meeting

An executive session may be held for any of those items for which an executive session may be held under the Open Public Meetings Act. Action items as necessary in the discretion of the board as a result of any item properly considered in executive session.

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 96-03-056**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 96-02]

**INSTITUTIONALIZING ACCOUNTABILITY IN THE CHILDREN'S SERVICES SYSTEM**

**WHEREAS**, the children's services system in Washington state must be committed to implementing and maintaining effective accountability mechanisms; and

**WHEREAS**, child welfare experts in Washington state concur on the specific changes needed for improved accountability; and

**WHEREAS**, accountability in the children's services system can be enhanced by informing the public on key performance measures; and

**WHEREAS**, an annual report card on the performance of the children's services system also can improve outcomes for children and their families; and

**WHEREAS**, the state's accountability for the health and safety of children under its protection and in its care can be enhanced by careful review and ongoing monitoring; and

**WHEREAS**, decision-making for children under the state's protection or in its care should not be done in isolation and should be reviewed on a regular basis; and

**WHEREAS**, accountability in the children's services system can be enhanced through systematic use of teams for key decision-making; and

**WHEREAS**, current law does not require shared decision-making in the provision of services to children,

**NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, by virtue of the power vested in me, do hereby order the following:**

1. Beginning on July 1, 1997, the Department of Social and Health Services (DSHS) shall prepare an annual quality assurance report card which shall include but is not limited to: performance outcomes regarding health and safety of children in the children's services system; children's length of stay in out-of-home placement, adherence to permanency planning timelines, and; the response time on CPS investigations.

MISCELLANEOUS

- 2. DSHS shall designate and maintain at least one group home monitor in each DSHS region whose responsibility shall be to monitor the health, safety and planning for children in group care.
- 3. DSHS shall implement and maintain a systematic shared-decision making process for key decisions affecting children's health, safety and welfare. This process shall clarify employees' roles and decision making responsibilities throughout the chain of command so that individual roles and responsibilities are focused and clear. The Department shall monitor the implementation of shared decision-making.
- 4. This Executive Order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia on this 11th day of January, A.D., nineteen hundred and ninety-six.

Mike Lowry  
Governor of Washington

BY THE GOVERNOR:

Ralph Munro  
Secretary of State

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.

**WSR 96-03-057**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
[EO 96-03]

**STRENGTHENING OUT-OF-HOME CARE LICENSING**

**WHEREAS**, the health and safety of children placed by the state in out-of-home care is of paramount importance, and

**WHEREAS**, licensing is the primary means employed by the state to protect the health and safety of children in out-of-home care and should always be accompanied by vigilant monitoring and strong enforcement measures, and

**WHEREAS**, national child welfare organizations recognize that separation of the state's licensing and placement activities provides better protection for the health and safety of children in out-of-home care, and

**WHEREAS**, separation of the licensing and placement functions that are now located in the Department of Social and Health Service's Division of Children and Family Services (DCFS) will eliminate the conflicting pressures of insuring children's health and safety and locating scarce placements for abused or neglected children.

**NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, direct the Department of Social and Health Services to form a separate division of licensing within the Children's Administration. This division shall have a separate director who shall report directly to the Assistant Secretary for the Children's Administration.**

- 1. The new DCFS licensing division shall be responsible for licensing, recruitment and enforcement responsibilities including but not limited to licensing denials, suspension, and revocation. The functions of licensing of potential and existing placements and the placement of children in out-of-home care are to be clearly separate.
- 2. The types of licenses to be handled by the new division shall include the following categories of care: foster home; group home; crisis residential center; respite care; overnight youth shelter; child placing agency; adoption agency, and; other categories of care that may be established by rule.
- 3. This Executive Order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia on this 11th day of January, A.D., nineteen hundred and ninety-six.

Mike Lowry  
Governor of Washington

BY THE GOVERNOR:

Ralph Munro  
Secretary of State

**WSR 96-03-058**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
(Library Commission)  
[Memorandum—January 10, 1996]

The Washington State Library Commission will hold the following meetings as listed below:

WSL COMMISSION WORKSHOP

DATE: February 8, 1996  
TIME: 9:00 - 5:00  
LOCATION: Washington State Library  
P.O. Box 42460  
Olympia, WA 98504-2460

**WSR 96-03-061**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
[Memorandum—January 12, 1996]

Following are the meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Immunology Faculty		
Meeting Dates	Location	Time
January 12	H-562	1:30
February 16	H-562	1:30
March 15	H-562	1:30

MISCELLANEOUS

April 12	H-562	1:30
May 17	H-562	1:30
June 14	H-562	1:30
September 13	H-562	1:30
October 11	H-562	1:30
November 8	H-562	1:30
December 13	H-562	1:30

**BNHS Business Meeting**

Meeting Dates	Location	Time
January 29, 1996	T612	12:30
April 1, 1996	T612	12:30
June 17, 1996	T612	12:30

**BNHS Program Meeting**

Meeting Dates	Location	Time
February 5, 1996	T612	12:30
March 4, 1996	T612	12:30
May 6, 1996	T612	12:30
August 5, 1996	T612	12:30
August 19, 1996	T612	12:30

**BNHS APT Meeting**

Meeting Dates	Location	Time
April 15, 1996	T612	12:30
June 3, 1996	T612	12:30
July 15, 1996	T612	12:30

**WSR 96-03-062**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 10, 1996]

Following is the meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

**Dean's Cabinet**

Meeting Dates	Location	Time
January 9, 23	461 Bagley Hall	10:30 - noon
February 6, 20	461 Bagley Hall	10:30 - noon
March 5, 19	461 Bagley Hall	10:30 - noon
April 2, 16, 30	461 Bagley Hall	10:30 - noon
May 14, 28	461 Bagley Hall	10:30 - noon
June 11, 25	461 Bagley Hall	10:30 - noon
July 9, 23	461 Bagley Hall	10:30 - noon
August 6, 20	461 Bagley Hall	10:30 - noon
September 3, 17	461 Bagley Hall	10:30 - noon
October 1, 15, 29	461 Bagley Hall	10:30 - noon
November 12, 26	461 Bagley Hall	10:30 - noon
December 10	461 Bagley Hall	10:30 - noon

**Faculty Meetings**

Meeting Dates	Location	Time
January 10	HUB 209A	11:30 to 1 p.m.
February 7	HUB 209A	11:30 to 1 p.m.
March 6	HUB 209A	11:30 to 1 p.m.
April 3	HUB 209A	11:30 to 1 p.m.
May 1	HUB 209A	11:30 to 1 p.m.
June 5	HUB 209A	11:30 to 1 p.m.
September (date TBA)	HUB 209A	11:30 to 1 p.m.
October 2	HUB 209A	11:30 to 1 p.m.
November 6	HUB 209A	11:30 to 1 p.m.
December 4	HUB 209A	11:30 to 1 p.m.

**WSR 96-03-063**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—January 12, 1996]

**SPECIAL MEETING NOTICE**

On Tuesday, January 16, 1996, the Edmonds Community College board of trustees will attend an annual foundation meeting and dinner. The meeting will be held [at] 4-6 p.m. in the staff lounge located on the second floor of the cafeteria in Brier Hall. The dinner will be held [at] 6-8 p.m. in Culinary Connections, BR 105. These events are being scheduled as a special meeting, a "study session" for the board, at which no action will be taken.

**WSR 96-03-069**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—January 16, 1996]

Following is the college board of trustees meeting schedule for the next three weeks. As you can see, the presidential search process is a time-consuming one.

Please note for your calendars you are invited to attend the college/community forums for the five semifinalists which will all be held from 3 to 4:15 p.m. in the Triton Union Building 202 on the days noted below. They are:

- January 18 with Jack Oharah
- January 22 with Walter Nolte
- January 23 with Mark Edelstein
- January 24 with David Sam
- January 26 with Christa Adams

**BOARD OF TRUSTEES**  
**SPECIAL MEETING NOTICES**

**JANUARY 1996**

- 17\* 3:00 - 4:00 p.m., Exceptional Classified Staff Awards Ceremony, Triton Union Building 202.
- 18\* 5:30 - 7:30 p.m., board of trustees formal interview with presidential search semifinalist in Sno-King Building Boardroom 103, Executive Session.

MISCELLANEOUS

- 18\* 7:30 - 9:00 p.m., board of trustees dinner with semifinalist and spouse if traveling with semifinalist in BR 105, Culinary Connections.
- 22\* 6:00 - 7:30 p.m., board of trustees formal interview with presidential search semifinalist in Sno-King Building Boardroom 103, Executive Session.
- 22\* 7:30 - 9:00 p.m., board of trustees dinner with semifinalist and spouse if traveling with semifinalist in BR 105, Culinary Connections.
- 23\* 6:00 - 7:30 p.m., board of trustees formal interview with presidential search semifinalist in Sno-King Building Boardroom 103, Executive Session.
- 23\* 7:30 - 9:00 p.m., board of trustees dinner with semifinalist and spouse if traveling with semifinalist in BR 105, Culinary Connections.
- 24\* 6:00 - 7:30 p.m., board of trustees formal interview with presidential search semifinalist in Sno-King Building Boardroom 103, Executive Session.
- 24\* 7:30 - 9:00 p.m., board of trustees dinner with semifinalist and spouse if traveling with semifinalist in BR 105, Culinary Connections.
- 26\* 6:00 - 7:30 p.m., board of trustees formal interview with presidential search semifinalist in Sno-King Building Boardroom 103, Executive Session.
- 26\* 7:30 - 9:00 p.m., board of trustees dinner with semifinalist and spouse if traveling with semifinalist in BR 105, Culinary Connections.
- 30 4:30 p.m., special board of trustees meeting in Sno-King Building Boardroom 103.

\* These events are being scheduled as special meetings where no action will be taken.

#### WSR 96-03-082

#### OFFICE OF MARINE SAFETY

[Filed January 17, 1996, 10:20 a.m.]

The following accepted industry standards were developed and approved by the Advisory Group on Cargo and Passenger Vessel Substantial Risk Criteria. The Advisory Group met in 1995 to review the boarding results of the Office of Marine Safety. Representatives of vessel owners and operators, state pilots, vessel agents, public ports, environmentalists, and maritime unions considered the Office's boarding results in light of federal and international requirements.

The Office will accept public comment on the following standards until March 8, 1996. The Office intends to incorporate the standards into the boarding program beginning March 11, 1996. Comments may be sent to:

Office of Marine Safety  
Attn: Stan Norman  
PO Box 42407  
Olympia, WA 98504-2407

## I. OPERATING PROCEDURES

### BRIDGE WATCH PROCEDURES

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should employ a Bridge Resource Management system that includes the following elements:

1. Formal underway watch conditions for open sea transits, coastal and restricted waters navigation, and restricted visibility conditions.
2. Watch composition for each condition.
3. Procedures for navigation with a pilot embarked.
4. Procedures for bridge team response to emergencies.
5. Clear delegation of duties, responsibilities and authority between bridge team members.
6. Procedures for both internal and external communication for each watch condition.
7. Comprehensive voyage planning procedures.

### HELMSMAN AND LOOKOUT

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that lookouts are assigned no other duties.

### PILOT COORDINATION

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should employ a pilot card or checklist to facilitate coordination and communication with state licensed pilots.

### SECURITY ROUNDS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that security rounds of the vessel are conducted hourly while in port or at anchor and at least once per watch while underway. The Master should designate spaces on the vessel to be visited during the security rounds. The primary purpose of security rounds is to detect and report fires, flooding and/or unsafe conditions. Vessels in layup status are not affected by this standard.

### ANCHOR WATCH

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that a licensed deck officer is standing watch on the vessel's bridge and monitoring the vessel's position while anchored in state waters.

### GROUND TACKLE READINESS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that vessel anchors are clear and ready to drop, when safe and practicable, while underway in state waters.

### ENGINE ROOM CREWING

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that licensed engineer officers are on watch in the engine room and engine control room, if equipped, while underway in state waters. In addition, an unlicensed

engineer rating should be on watch in the engineering spaces while underway in state waters.

### VOYAGE PLANNING

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should employ a written voyage planning system that includes the following minimum elements:

1. General waterway characteristics.
2. Navigational aids.
3. Charts, navigational publications, and notices to mariners.
4. Expected traffic levels.
5. Environmental (weather and currents) conditions expected.
6. Pilotage.
7. Vessel traffic services (VTS) procedures and communications.
8. Berthing/anchoring arrangements (if known).
9. Engineering considerations.
10. Voyage - specific emergency procedures.

### CHARTS AND PUBLICATIONS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that all charts and navigational publications covering state waters are correct and current.

### EQUIPMENT ERROR CHECKS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that all radars, gyrocompasses, magnetic compasses and compass repeaters in use are checked for errors at least once per watch while underway in state waters.

### ELECTRICAL SYSTEMS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that standby and emergency generators are proven operational no more than 12 hours prior to entering or operating in state waters.

### FUEL OIL/LUBE OIL PUMPS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that primary and back-up fuel and lube oil pumps are proven operational no more than 12 hours prior to entering or operating in state waters.

### OIL STRAINERS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that all fuel and lube oil strainers are cleaned and ready for use no more than 12 hours prior to entering or operating in state waters.

### COOLING WATER SYSTEMS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure all cooling water primary and back-up circulating pumps are proven operational no more than 12 hours prior to entering or operating in state waters.

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that scoop injection cooling water systems are secured before entering state pilotage waters.

### CONTROL/START AIR SYSTEMS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that starting air system tanks are full, all primary and back-up air compressors have been proven operational, and condensate in the system has been properly drained, no more than 12 hours prior to entering or operating in state waters.

### STEERING GEAR FLAT

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that primary and back-up steering systems are tested no more than 12 hours prior to entering or operating in state waters. In addition, the steering gear flat should be inspected hourly while the vessel is underway in state waters, unless a remote monitoring system is installed.

## II. PERSONNEL POLICIES

### VESSEL CREWING

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that their vessels are crewed in accordance with the requirements of the vessels' flag state. Crew members should be certified in accordance with the STCW for the position they are filling.

### WORK HOURS/FATIGUE

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that vessel crew members are rested at least 10 hours per day except in an emergency. At least 6 hours of rest each day shall be consecutive and uninterrupted. In addition, vessel crew members should receive at least 70 hours of rest per week in all cases. This standard does not apply to state licensed pilots who are covered by the State Pilotage Code.

### ALCOHOL AND DRUG POLICY

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should institute policies for alcohol use that conform to 33 and 46 CFR. In addition, they should strictly prohibit illegal drugs, as defined in 46 CFR, from use or carriage on board their vessels. This standard does not apply to state licensed pilots, who are covered by the State Pilotage Code.

### TRAINING PROGRAMS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should institute a comprehensive training program for vessel crew members that includes orientation training, functional and job-specific equipment training, and refresher training.

Training programs should include bridge resource management training for deck watch personnel and shipboard management training for senior officers.

This standard does not apply to state licensed pilots, who are covered by the State Pilotage Code.

## ORIENTATION

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure orientation training is provided for new crew members and crew members who have not been assigned to a vessel of the same type within the past year. The orientation training should include duties and responsibilities during all normal and emergency situations and vessel familiarization, including escape routes from work and sleeping spaces.

## DRILLS

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that emergency drills are conducted at least every two weeks or whenever 25% or more of the vessel crew is replaced. Drills should be evaluated and reviewed by all participants at the conclusion of the drill. Emergency drills should include firefighting, abandon ship and boat drill. In addition, owners and/or operators should ensure that emergency steering drills and oil spill response drills are conducted monthly.

## ENGLISH PROFICIENCY

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that all officers who are required to communicate with pilots, persons ashore, and other vessels, are sufficiently proficient in the English language to accomplish their duties safely.

## COMMON LANGUAGE

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should designate a common spoken and written working language on board vessels with multi-national crews. All manuals, instructions, and placards on vessels with multi-national crews should be printed in the designated common language.

## III. MANAGEMENT PRACTICES

### MANAGEMENT OVERSIGHT

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that vessels are visited by a representative of company management, such as a port captain or port engineer, at least quarterly. The management representative should review operating and management issues, inspect the vessel, and consult with the senior officers on the vessel.

### SAFETY/ENVIRONMENTAL MANAGEMENT PROGRAM

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should implement a safety and environmental protection management system equivalent to the International Safety Management (ISM) Code.

### SAFETY PROGRAM

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that a corporate safety program is implemented. The safety program should include a system for disseminating

critical safety information including accident prevention measures and corrective actions, throughout the owner or operator's fleet of vessels.

## SHIPBOARD SAFETY PROGRAM

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that a shipboard safety program is established that includes safety committee meetings at least monthly.

## POLLUTION

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that a pollution prevention program is implemented on each affected vessel to ensure compliance with international and federal regulations. The program should provide for incineration or landing, with record maintenance and receipts, of oil and solid waste. Record keeping systems should comply with international and federal standards. The program should also include crew training on pollution prevention and waste management practices.

## BALLAST WATER

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should implement a mid-ocean ballast water exchange policy, when safe and practical, to reduce the risk of introducing harmful organisms into state waters.

## PLANNED MAINTENANCE SYSTEM

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that a planned maintenance system is in place for all major ship systems that includes preventive maintenance and detailed record keeping.

## INSPECTION/SURVEY

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should ensure that ballast tanks and cargo holds are inspected at least annually to detect potential structural failures, cracks, and excessive corrosion.

## ULTRASONIC GAUGING

Owners and/or operators of cargo and passenger vessels 300 gross tons and larger operating in Washington waters should implement a program of ultrasonic gauging and/or non-destructive testing of vessel hulls and tanks at intervals not to exceed 3 years, if the affected vessels are not participating in an enhanced hull survey program administered by the International Association of Classification Societies (IACS).

**WSR 96-03-089**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF LICENSING  
(Board of Registration for Architects)**

[Memorandum—January 16, 1996]

REVISION: 1996 SCHEDULE OF REGULAR BOARD MEETINGS  
BOARD OF REGISTRATION FOR ARCHITECTS

Following is a revised schedule of the 1996 regular board meetings for the Board of Registration for Architects.

The March 22nd meeting is added.  
 The July 12th meeting is canceled.  
 The September 20th meeting is a one day meeting, the 19th is canceled.

<u>Meeting Date</u>	<u>Location</u>	<u>Time</u>
January 26	University of Washington Deans Conference Room 2nd Floor, 224, Gould Hall Seattle, Washington	9:00 a.m.
March 22	Wyndham Garden Hotel 18118 Pacific Highway South International Drive Highway 99 SeaTac, WA	9:00 a.m.
April 25	Professional Licensing Building Conference Room, 1st Floor 405 Black Lake Boulevard Olympia, WA	1:00 p.m.
April 26	Washington State University Room 521 Carpenter Hall Pullman, Washington	9:00 a.m.
May 24	Wyndham Garden Hotel 18118 Pacific Highway South International Drive Highway 99 SeaTac, WA	9:00 a.m.
September 20	Red Lion at the Quay Portside Meeting Room 100 Columbia Street Vancouver, WA	9:00 a.m.
November 15	Wyndham Garden Hotel 18118 Pacific Highway South International Drive Highway 99 SeaTac, WA	9:00 a.m.

**WSR 96-03-090**  
 NOTICE OF PUBLIC MEETINGS  
 DEPARTMENT OF AGRICULTURE  
 (Beef Commission)  
 [Memorandum—January 17, 1996]

The 1996 meeting schedule for the Washington State Beef Commission is as follows:

March 7-8 (Thursday-Friday)	Strategic Planning	Seattle
April 25 (Thursday)	Budget Meeting	Ellensburg
June 20 (Thursday)	Annual Meeting	Ellensburg
October 31-November 2 (Thursday-Saturday)	Regular Meeting (WCA/WCW Convention)	Kennewick

December (TBD) Regular Meeting Pasco  
 (WCF Annual Convention)

**WSR 96-03-094**  
 NOTICE OF PUBLIC MEETINGS  
 CONVENTION AND TRADE  
 CENTER

[Memorandum—January 18, 1996]

The Design Committee of the Washington State Convention and Trade Center (WSCTC) will next meet on Wednesday, January 24 from 2:00 - 4:00 p.m. at LMN Architects, the Norton Building, 801 Second Avenue, 5th Floor, Seattle, WA, 682-3460.

This meeting was originally scheduled and announced to be held on January 26; it has been rescheduled to January 24.

If you have any questions regarding this meeting, please call 447-5000.

**WSR 96-03-102**  
 NOTICE OF PUBLIC MEETINGS  
 EASTERN WASHINGTON UNIVERSITY

[Memorandum—January 22, 1996]

BOARD OF TRUSTEES  
 January 26, 1996, 9:00 a.m.  
 Cheney Campus  
 Pence Union Building  
 Room 263-65

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the PUB Board Room.

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 96-03-108**  
 NOTICE OF PUBLIC MEETINGS  
 TRANSPORTATION COMMISSION

[Memorandum—January 20, 1996]

The February 1996 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, February 14, and 9:00 a.m. on Thursday, February 15, 1996, at the Transportation Building, Room 1D2, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, February 14, also at the Transportation Building, Rooms 1D2 and 1D22.

The March 1996 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, March 20, and 9:00 a.m. on Thursday, March 21, 1996, at the Transportation Building, Room 1D2, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, March 20, also at the Transportation Building, Rooms 1D2 and 1D22.

Also, please be advised that the Transportation Commission's September 1996 meetings have been rescheduled from September 18 and 19 to September 10 and 11.

**WSR 96-03-111**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 22, 1996]

Following are the meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office:

**Faculty Meetings**  
**Department of Architecture**

Meeting Dates	Location	Time
Each Wednesday or as announced	208J Gould	12 noon -1:30
Wednesday noons during academic sessions		

**School of Nursing**  
**Governing Council**

Meeting Dates	Location	Time
Weekly meetings Wednesdays	T-305 H.S. Building	12:00- 1:00 p.m.

**Deans and Chairs Meeting**

Meeting Dates	Location	Time
2nd and 4th Mondays each month	T-305 H.S. Building	8:30- 10:30 a.m.

**SON Faculty Meeting**

Meeting Dates	Location	Time
4th Monday each month	T-661 H.S. Building	12:30- 2:15 p.m.

**Faculty Council**  
**TBA**

Meeting Dates	Location	Time
2nd Monday each month	T-305 H.S. Building	12:30- 2:15 p.m.

**Department Chairs**

Meeting Dates	Location	Time
1st & 3rd Monday every month	T-431 H.S. Building	2:30- 4:30 p.m.

**APT Committee**

Meeting Dates	Location	Time
2nd Monday every month	T-612 H.S. Building	2:30- 4:30 p.m.

**Rsh & Intramural Funding**

Meeting Dates	Location	Time
1st Monday each month	T-643 H.S. Building	2:30- 4:30 p.m.

**BSN Curriculum Coordinating**

Meeting Dates	Location	Time
3rd Monday every month	T-612 H.S. Building	2:30- 4:30 p.m.

**Masters Curriculum Coordinating**

Meeting Dates	Location	Time
2nd Monday every month	T-612 H.S. Building	2:30- 4:30 p.m.

**PhD Curriculum Coordinating**

Meeting Dates	Location	Time
1st Monday every month	T-404 H.S. Building	2:30- 4:30 p.m.

**Department Meetings**

Meeting Dates	Location	Time
1st & 3rd Monday every month	In departments H.S. Building	12:30- 2:15 p.m.

**Faculty Practice**

Meeting Dates	Location	Time
3rd Monday every month	T-612 H.S. Building	10:30- 12:15 p.m.

**Faculty Meeting**  
**Department of Neurosurgery**

Meeting Dates	Location	Time
January 30, 1996	HMC 1C-30	5:00 p.m.
March 19, 1996	HMC 1C-30	5:00 p.m.
June 11, 1996	HMC 1C-30	5:00 p.m.
September 10, 1996	HMC 1C-30	5:00 p.m.
December 3, 1996	HMC 1C-30	5:00 p.m.

**Department of Neurological Surgery**  
**General Faculty Meeting Schedule, 1996**

The following is advance notification of general faculty meeting dates for 1996.

Tuesday	January 30	5:00 p.m.	HMC Board Room 1C-30
Tuesday	March 19	5:00 p.m.	HMC Board Room 1C-30
Tuesday	June 11	5:00 p.m.	HMC Board Room 1C-30
Tuesday	September 10	5:00 p.m.	HMC Board Room 1C-30
Tuesday	December 3	5:00 p.m.	HMC Board Room 1C-30

**Faculty - Political Science**

Meeting Dates	Location	Time
March 1, 1996	Gowen 1B	1:30 to 3:30

MISCELLANEOUS



**WSR 96-03-112**  
**NOTICE OF PUBLIC MEETINGS**  
**OLYMPIC COLLEGE**  
 [Memorandum—January 19, 1996]

The board of trustees has changed the date of the regular board meeting that was scheduled to be held on February 27, 1996, 7:30 p.m. in the Board Room at Olympic College, District No. 3, Bremerton, Washington, to February 20, 1996, 7:30 p.m.

**WSR 96-03-113**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—January 23, 1996]

**SPECIAL MEETING NOTICE**  
**NOTE TIME CHANGE**

The Edmonds Community College board of trustees will meet in executive session Friday, January 26, 1996, 5:30-7:30 p.m., in Sno-King Building Boardroom 103, to discuss with legal counsel matters involving attorney/client privilege and then to evaluate the qualifications of an applicant for public employment, namely, to interview Dr. Christa Adams for the position of college president.

**WSR 96-03-133**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Examining Board of Psychology)  
 [Memorandum—January 22, 1996]

Please consider this memorandum an advanced notice for the cancellation of the March 8-9, 1996, Examining Board of Psychology meeting.

If you have any questions or concerns please feel free to call (360) 753-2147.

**WSR 96-03-136**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**  
 [Memorandum—January 22, 1996]

At their regular quarterly meeting in September, the Interagency Committee for Outdoor Recreation adopted the following meeting schedule for 1996:

March 25	Olympia/Natural Resource Building, Room 175
July 10-12	Vancouver/Water Resource Facility
September 23-24	Olympia/Natural Resource Building, Room 175
November 12-13	Olympia/Natural Resource Building, Room 175

**WSR 96-03-137**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fish and Wildlife Commission)  
 [Memorandum—January 18, 1996]

The Washington Fish and Wildlife Commission has scheduled the following workshops and meetings for 1996:

Date	Function	Location
January 12-13	Workshop	Olympia
February 3	Meeting	Olympia
February 23	Workshop	Olympia
March 8 and 9	Meetings	Eastern and Western Washington
April 5-6	Workshop	Olympia
April 15	Conference call	Olympia
April 20	Meeting	Sunnyside
May 22-23	Workshop	Olympia
June 21-22	Meeting	Seattle
July 1	Workshop	Olympia
July 19-20	Workshop	Olympia
August 10	Meeting	Grays Harbor area
November 1-2	Workshop	Olympia
November 15-16	Meeting	Spokane
December 6-7	Meeting	Bellingham

Additional workshops and conference calls may be scheduled on an as-needed basis.

**WSR 96-03-146**  
**RULES COORDINATOR**  
**WASHINGTON STATE**  
**HISTORICAL SOCIETY**  
 [Filed January 24, 1996, 10:07 a.m.]

The agency rules coordinator for the Washington State Historical Society is Marie DeLong, Administrative Officer, Washington State Historical Society, 315 North Stadium Way, Tacoma, WA 98403.

David L. Nicandri  
 Director

**WSR 96-03-147**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 17, 1996]

Following is a meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the University of Washington Public Records Office.

Russian, East European and Central Asian Studies  
 Jackson School of International Studies

Meeting Dates	Location	Time
First Monday every month, beginning February 5, 1996.	Thomson Hall 317	12:30-2:00

MISCELLANEOUS

Normally do not meet during summer quarter.

**WSR 96-03-152**  
**REVIEW OF PREVIOUSLY ADOPTED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed January 24, 1996, 11:56 a.m.]

Finding of Joint Administrative Rules Review Committee Related to: Agency is using policy, statements, guidelines, or issuances in place of a rule.

Hearing on committee's finding will be held at the WestCoast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle Room, SeaTac, WA 98188, on March 22, 1996, at 9:00 a.m.

Statement of Committee's Findings and Reasons: On January 3, 1996, labor and industries received JARRC's findings requesting that we convert interpretative guideline ES-013 into a rule. JARRC wants clarification in rule as to which commission sales employees are covered under federal law as authorized in RCW 49.46.130 (2)(h).

Other Agency Comments or Information: The Department of Labor and Industries will hold a hearing to take comments on the JARRC findings. The hearing will take place as noted above.

January 24, 1996  
Mark O. Brown  
Director

MISCELLANEOUS











Table of WAC Sections Affected

WAC #		WSR #	WAC #	WSR #	WAC #	WSR #
516-22-124	REP	96-03-103				
516-22-130	REP	96-03-103				
516-22-134	REP	96-03-103				
516-22-138	REP	96-03-103				
516-22-142	REP	96-03-103				
516-22-146	REP	96-03-103				
516-22-150	REP	96-03-103				
516-22-210	REP	96-03-103				
516-23-005	NEW	96-03-103				
516-23-010	NEW	96-03-103				
516-23-015	NEW	96-03-103				
516-23-020	NEW	96-03-103				
516-23-025	NEW	96-03-103				
516-23-030	NEW	96-03-103				
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516-23-040	NEW	96-03-103				
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516-23-075	NEW	96-03-103				
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516-23-095	NEW	96-03-103				
516-23-100	NEW	96-03-103				
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516-23-125	NEW	96-03-103				
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516-23-140	NEW	96-03-103				
516-23-145	NEW	96-03-103				

TABLE



**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

<b>ACCOUNTANCY, BOARD OF</b>			<b>CENTRAL WASHINGTON UNIVERSITY</b>		
Third party compensation	<b>PREP</b>	<b>96-03-114</b>	Affirmative action policy	<b>PERM</b>	96-02-013
<b>AGRICULTURE, DEPARTMENT OF</b>			<b>CENTRALIA COLLEGE</b>		
Alfalfa seed commission assessments	<b>PERM</b>	<b>96-03-151</b>	Meetings	<b>MISC</b>	96-01-097
Apple commission meetings	<b>MISC</b>	96-02-061	<b>CLARK COLLEGE</b>		
Asparagus commission meetings	<b>MISC</b>	96-01-052	Meetings	<b>MISC</b>	96-01-076
Barley commission meetings	<b>MISC</b>	96-01-051	Public records, availability	<b>PREP</b>	<b>96-03-101</b>
Beef commission meetings	<b>MISC</b>	<b>96-03-090</b>	<b>CLOVER PARK TECHNICAL COLLEGE</b>		
Dry pea and lentil commission meetings	<b>MISC</b>	<b>96-03-011</b>	Meetings	<b>MISC</b>	96-01-060
Farmed salmon commission meetings	<b>MISC</b>	<b>96-03-030</b>	<b>CODE REVISER'S OFFICE</b>		
Food storage warehouses licenses			Quarterly reports		
renewal and expiration dates	<b>PERM</b>	96-01-041	95-19 through 95-24 - See Issue 96-02		
Forest reproductive material certification fees	<b>PROP</b>	<b>96-03-065</b>	<b>COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR</b>		
Fruits and vegetables fees for department services	<b>PREP</b>	96-02-036	Tuition and fees		
Fryer commission meetings	<b>MISC</b>	<b>96-03-017</b>	waivers	<b>PROP</b>	96-01-022
Ginseng certification for export record keeping	<b>PREP</b>	96-02-037		<b>PERM</b>	<b>96-03-049</b>
Hop commission assessments meetings	<b>PREP</b>	96-02-037	<b>COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>		
Horticulture plant pests	<b>PREP</b>	<b>96-03-064</b>	Growth management planning and environmental review fund		
Mint commission grower assessments	<b>PERM</b>	<b>96-03-150</b>	management procedure	<b>PROP</b>	96-01-105
Noxious weed control board noxious weed list schedule of penalties	<b>PROP</b>	<b>96-03-093</b>	Hardwoods commission meetings	<b>EMER</b>	<b>96-03-045</b>
Potato commission meetings	<b>PROP</b>	<b>96-03-093</b>	Land use study commission meetings	<b>MISC</b>	<b>96-03-042</b>
Public records, availability	<b>PREP</b>	<b>96-03-149</b>		<b>MISC</b>	96-01-116
Puget Sound gillnet salmon commission meetings	<b>MISC</b>	96-01-113	<b>CONVENTION AND TRADE CENTER</b>		
Red raspberry commission meetings	<b>MISC</b>	96-01-112	Meetings	<b>MISC</b>	96-01-025
Seeds assessment program	<b>PREP</b>	96-02-038		<b>MISC</b>	<b>96-03-010</b>
Weights and measures device registration	<b>PERM</b>	96-01-040		<b>MISC</b>	<b>96-03-094</b>
service agent registration	<b>PERM</b>	96-01-040	<b>COUNTY ROAD ADMINISTRATION BOARD</b>		
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<b>ATTORNEY GENERAL'S OFFICE</b>			<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>		
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<b>BELLEVUE COMMUNITY COLLEGE</b>			Meetings	<b>MISC</b>	96-01-027
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Tuition and fees refunds	<b>PERM</b>	96-01-056	<b>ECOLOGY, DEPARTMENT OF</b>		
<b>BELLINGHAM TECHNICAL COLLEGE</b>			Air quality		
Meetings	<b>MISC</b>	<b>96-03-020</b>	Clark county carbon monoxide maintenance plan	<b>MISC</b>	96-02-039
<b>BENTON COUNTY CLEAN AIR AUTHORITY</b>			Fish hatcheries		
Regulation 1	<b>PROP</b>	<b>96-03-032</b>	marine finfish rearing facilities	<b>PERM</b>	96-02-058
<b>BUILDING CODE COUNCIL</b>			Resource damage assessment committee meetings	<b>MISC</b>	96-01-043
Fireplace design standards	<b>PERM</b>	96-01-120	Wastewater discharge permit program fees	<b>PERM</b>	<b>96-03-041</b>
Meetings	<b>MISC</b>	96-01-121	Water quality		
			surface waters not meeting quality standards	<b>MISC</b>	96-01-044
			<b>ECONOMIC DEVELOPMENT FINANCE AUTHORITY</b>		
			Meetings	<b>MISC</b>	<b>96-03-006</b>
			<b>EDMONDS COMMUNITY COLLEGE</b>		
			Meetings	<b>MISC</b>	96-01-096
				<b>MISC</b>	<b>96-03-043</b>
				<b>MISC</b>	<b>96-03-063</b>
				<b>MISC</b>	<b>96-03-069</b>
				<b>MISC</b>	<b>96-03-113</b>
			<b>EDUCATION, STATE BOARD OF</b>		
			Early childhood education		
			subject area endorsement	<b>PROP</b>	96-01-081

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

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Teachers			areas and seasons	EMER	96-01-048
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<b>EMPLOYMENT SECURITY DEPARTMENT</b>			sturgeon		
Employer mailing address	PREP	96-03-158	areas and seasons	EMER	96-02-026
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			game fish seasons and catch limits,		
			1995-97		
<b>EVERGREEN STATE COLLEGE (See</b>			Carbon River	EMER	96-03-053
<b>THE EVERGREEN STATE COLLEGE)</b>			closing date	EMER	96-03-054
			Green River	EMER	96-03-053
<b>EXECUTIVE ETHICS BOARD</b>			Nisqually River	EMER	96-03-053
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			Skykomish River	EMER	96-03-053
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			Stillaguamish River	EMER	96-03-053
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	PERM	96-03-059	shellfish		
Credit unions			areas and seasons		
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officers' and directors'			problem animal removal	PREP	96-02-030
equity investment	PREP	96-03-127	Wildlife rehabilitation facilities	PREP	96-02-066
promotional shares	PROP	96-03-132			
selling expenses	PREP	96-03-122	<b>FOREST PRACTICES BOARD</b>		
small corporate offering registration	PREP	96-03-120	Marbled murrelet		
			critical wildlife habitat	EMER	96-03-009
<b>FINANCIAL MANAGEMENT, OFFICE OF</b>				PROP	96-03-067
Rules adoption, amendment or repeal,			Meetings	MISC	96-02-068
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			critical wildlife habitat	EMER	96-03-009
<b>FISH AND WILDLIFE, DEPARTMENT OF</b>				PROP	96-03-067
Deleterious exotic species			<b>GAMBLING COMMISSION</b>		
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Fish and wildlife commission			Amusement games		
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## Subject/Agency Index

(Citation in bold type refer to material in this issue)

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Raffles	<b>PROP</b>	<b>96-03-076</b>	professional responsibilities	<b>PERM</b>	<b>96-02-005</b>
Recreational gambling permits	<b>PREP</b>	<b>96-03-085</b>		<b>PERM</b>	<b>96-03-016</b>
Social card games	<b>PREP</b>	<b>96-03-086</b>	steroids		
Taxation, compliance requirements	<b>PROP</b>	<b>96-01-087</b>	addition to schedule III	<b>PERM</b>	<b>96-01-032</b>
Tribal casinos			Physical therapy, board of		
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