

Washington State Register

FEBRUARY 21, 1996

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filed not later than February 7, 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 (360) 753-7470.

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of 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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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.

Mary F. Gallagher Dilley
Chair, Statute Law Committee

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Chief Assistant Code Reviser

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 ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 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
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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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and mitigation 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;

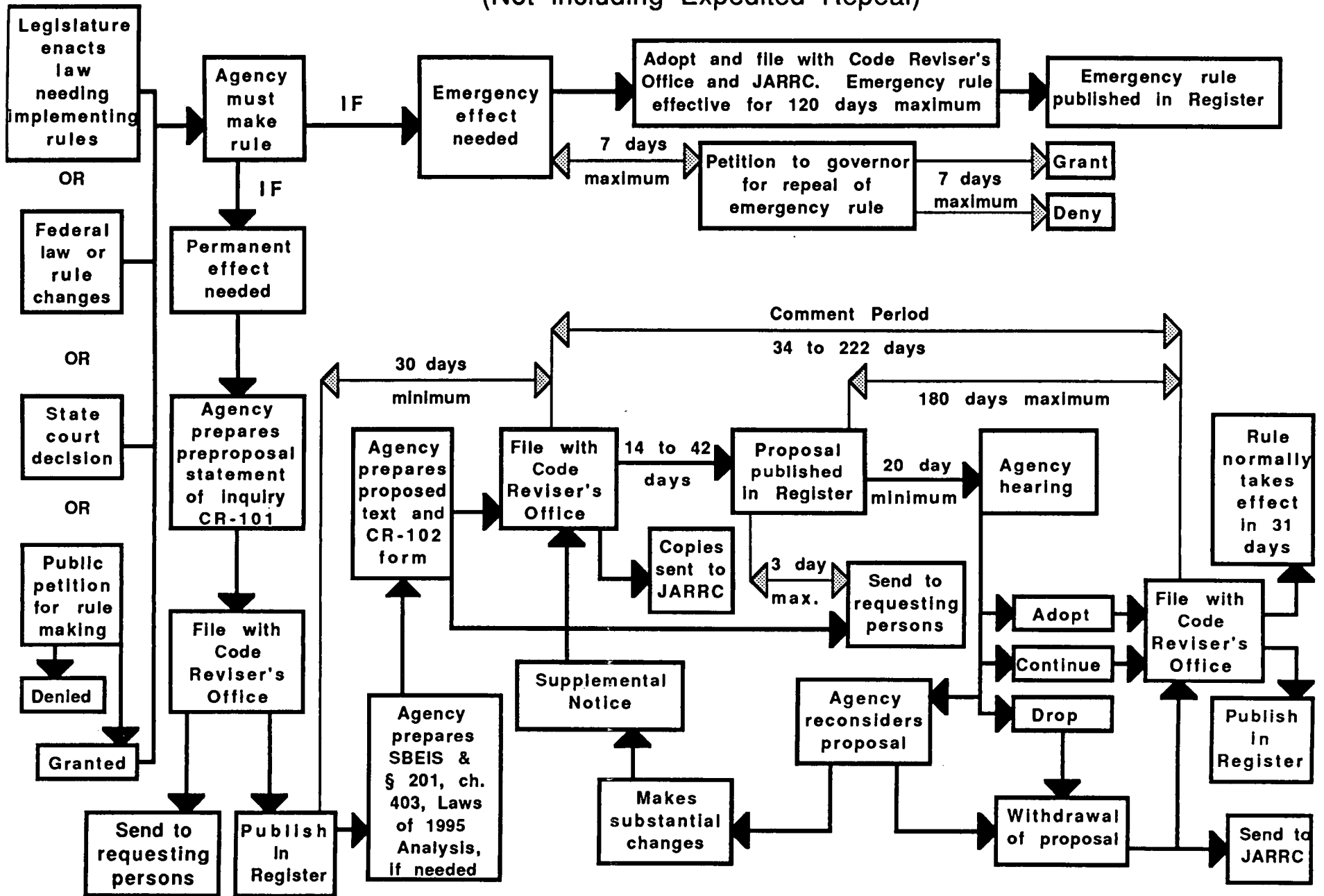
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 96-04-007

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed January 25, 1996, 2:50 p.m.]

Subject of Possible Rule Making: Landscape architect examination charges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.96.080, 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The vendor has increased the examination price. This rule is needed to increase the examination charges that candidates pay for the examination.

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

Process for Developing New Rule: Examination charges are set in accordance with the examination vendor price, which is passed through the Department of Licensing directly to vendor.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting James D. Hanson, Administrator, Board of Registration for Landscape Architects, P.O. Box 9045, Olympia, WA 98507-9045, (360) 753-1153, FAX (360) 664-2550, TDD (60) [(360)] 753-1966. Deadline for comments: March 26, 1996.

January 23, 1996
James D. Hanson
Program Administrator

AMENDATORY SECTION (Amending WSR 95-20-026, filed 9/27/95, effective 10/28/95)

WAC 308-13-150 Landscape architect fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Application fee	\$150.00
Reexamination administration fee	50.00
Exam proctor	100.00
Renewal (3 years)	450.00
Late renewal penalty	150.00
Duplicate license	25.00
Initial registration (3 years)	450.00
Reciprocity application fee	200.00
Certification	45.00
Replacement certificate	20.00

The following charges shall be collected from examination candidates for examinations ordered from CLARB on their behalf. The charges recovered by the department shall be refunded to CLARB for the costs of tests and shipping charges for examinations.

Examination and Sections	Charges
Entire examination	\$(515.00) <u>550.00</u>
Examination sections:	
Section 1: Legal and administrative aspects of practice	((30.00)) <u>40.00</u>
Section 2: Programming and environmental analysis	((35.00)) <u>70.00</u>

Section 3: Conceptualization and communication	((400.00)) <u>110.00</u>
Section 4: Design synthesis	((400.00)) <u>110.00</u>
Section 5: Integration of technical and design requirements	((400.00)) <u>110.00</u>
Section 6: Grading and drainage	((400.00)) <u>110.00</u>
((Section 7: Implementation of design through construction process	50.00))

WSR 96-04-023

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SERVICES FOR THE BLIND**

[Filed January 31, 1996, 8:52 a.m.]

Subject of Possible Rule Making: Facility operation agreement for the business enterprise program of the Department of Services for the Blind.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.18 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: It is the recommendation of the Attorney General's Office that the facility operation agreement be moved from the WAC and placed in department policy. The WAC is amended to refer to the policy agreement.

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 Bonnie Jindra, Assistant Director, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, (360) 586-0275.

January 31, 1996
Bonnie Jindra
Assistant Director

WSR 96-04-024

**PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)**

[Order #100342—Filed February 1, 1996, 9:38 a.m.]

Subject of Possible Rule Making: WAC 388-528-2810 Receipt of resources—Penalties.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Implementation of E2SHB 1908.

Goals of New Rule: Allows the department to find a person liable for a civil penalty for receiving an asset from a person receiving long-term care services.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in formulation of the new rule by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

February 1, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

WSR 96-04-025
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)

[Filed February 1, 1996, 9:40 a.m.]

Subject of Possible Rule Making: WAC 388-503-0310
Categorically needy eligible persons.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Comply with federal changes.

Goals of New Rule: Ensure a person whose SSI benefits are terminated for noncompliance with drug or alcohol treatment requirements or for exhaustion of thirty-six month limitation of SSI benefits remain eligible for CN medical.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in formulation of the new rule by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

February 1, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

WSR 96-04-052
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF
PILOTAGE COMMISSIONERS

[Filed February 6, 1996, 12:02 p.m.]

Subject of Possible Rule Making: WAC 296-116-300
Pilotage rates for the Puget Sound pilotage district.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.16.035(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current tariff expires on June 30, 1996. The board must fix pilotage tariffs annually.

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 the board will begin receiving comments as to reasonable tariff levels and will continue to encourage

written documentation and oral comments pursuant to formal notice requirements. Negotiations between the interested parties are ongoing and encouraged.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments will be received from the general public up through May 2, 1996, and oral comments will be received at the public hearing on May 9, 1996. Specific time schedules will be established for the affected pilots and ship owners/operators. Contact Peggy Larson, 801 Alaskan Way, Seattle, WA 98104-1487, phone (206) 464-7818, FAX (206) 464-6368.

February 1, 1996
Peggy Larson
Administrator

WSR 96-04-055
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)

[Filed February 6, 1996, 3:46 p.m.]

Subject of Possible Rule Making: WAC 388-513-1360
Resource exemptions.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Coordination with Office of the Insurance Commissioner.

Goals of New Rule: Allows the exemption of certain resources when a person has purchased a long-term care insurance policy. Resource exemption shall be equal to the amount such policy has paid for nursing facility or home- and community-based services covered under Medicaid.

Process for Developing New Rule: The department has taken part in a series of planning meetings with the Insurance Commissioner's Office, client advocates, and insurance plans. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in formulation of the new rule by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

February 6, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

WSR 96-04-056
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 (Public Assistance)

[Order 100343—Filed February 6, 1996, 3:47 p.m.]

Subject of Possible Rule Making: WAC 388-519-1910 Allowable income deductions and exemptions and 388-519-1930 Computing spenddown; allowable spenddown expenses.

Specific Statutory Authority for New Rule: RCW 74.08.090, 42 CFR 436.831.

Reasons Why the New Rule is Needed: Comply with CFR and other administrative changes made at the request of internal and field staff.

Goals of New Rule: Deletes health insurance premiums as an income deduction. Provide rules to clarify public program policies. Corrects cross references. Clarifies the child's allowance is the one-half of the FBR minus the child's income.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in formulation of the new rule by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

February 6, 1996
 Merry A. Kogut, Supervisor
 Rules and Policies Assistance Unit

WSR 96-04-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed February 6, 1996, 3:50 p.m.]

Subject of Possible Rule Making: Bean seed certification and phytosanitary rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.49 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update bean seed certification and phytosanitary rules. To allow for planting certain varieties of beans with isolation distances and allowing the growing of seed under sprinklers. New varieties are more disease resistant and can be grown under sprinklers, if that growing is alternated with rill irrigation techniques. The proposed rule would make growing conditions the same as current practice in Idaho.

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

Process for Developing New Rule: Request from the Washington Seed Council and the bean seed industry. Discussions with industry groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To participate in meetings, public hearings and to provide written comments contact Mr. Max Long,

Program Manager, Washington State Department of Agriculture, Seed Branch, 2015 South First Street, Yakima, WA 98903, (509) 575-2750, FAX (509) 454-4395.

February 5, 1996
 K. Diane Dolstad
 Assistant Director

WSR 96-04-059
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE POLICY BOARD

[Filed February 6, 1996, 4:06 p.m.]

Subject of Possible Rule Making: Revision of existing agency rule permitting competing health care providers to engage in collective negotiation of certain nonfee terms and conditions of contracts with certified health plans. See WAC 245-02-040.

Statutes Authorizing the Agency to Adopt Rules on This Subject: RCW 43.72.310.

Reasons why Rules on This Subject may be Needed and What They Might Accomplish: The 1995 legislative amendments to the Health Services Act of 1993 transferred the Health Services Commission's antitrust duties to the Health Care Policy Board and eliminated some references to certified health plans, leaving uncertain the scope of collective negotiation. The collective negotiation rule needs to be revised to resolve the resulting uncertainty. The revised rule will substitute the name of the Health Care Policy Board in place of current references to the Health Services Commission. The revised rule will also clarify the parties with whom competing health care providers may negotiate by expanding the rule's applicability to include "health carriers" as defined in RCW 48.43.005(8) or some other list of payors beyond certified health plans. The amended rule will resolve the ambiguity resulting from the legislature's elimination of references to certified health plans in some 1995 amendments and its continued use of the term in RCW 43.72.310 as amended.

Other Federal and State Agencies That Regulate This Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies directly regulate the subject of this rule. Nevertheless, the Health Care Policy Board will draft its revised rule with input from the antitrust section of the Attorney General's Office.

Process for Developing New Rule: The Health Care Policy Board will hold public hearings and seek written comment from the public.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Duane Thurman, Policy Analyst, Health Care Policy Board, P.O. Box 41185, Olympia, WA 98504-1185, Office (360) 407-0154, FAX (360) 407-0069. Written comments in response to this preproposal statement of inquiry should be submitted by March 22, 1996.

February 5, 1996
 George S. Schneider
 Board Member

WSR 96-04-064
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed February 7, 1996, 9:23 a.m.]

February 7, 1996
Evan Jacoby
Rules Coordinator

Subject of Possible Rule Making: Expand the veteran remembrance emblems program in recognition of other campaign ribbons awarded to veterans and military personnel who served in our nation's wars and conflicts.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.319(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The state statute designed to recognize veterans and military personnel is not all inclusive of those persons deserving recognition and authorizes the department to evaluate other campaigns and adopt by rule additional remembrance emblems.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Veteran Affairs is beneficial of the revenue generated by veteran remembrance emblem sales. The addition of remembrance emblems is coordinated with that agency.

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 by contacting Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3773, FAX (360) 664-0831, TDD (360) 664-8885. Comments are requested by April 1, 1996.

February 6, 1996
Nancy Kelly, Administrator
Title and Registration Services

WSR 96-04-068
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed February 7, 1996, 10:17 a.m.]

Subject of Possible Rule Making: Commercial fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will implement the 1996 Puget Sound salmon net fishery.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Commerce. These rules are coordinated with the Pacific Fisheries Management Council and the North of Falcon Process. Recommendations from these entities will be considered in drafting proposals.

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 Rich Lincoln, Assistant Director, Fish Management Program, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2325. Contact by April 15, 1996. Expected rule proposal filing is April 17, 1996.

WSR 96-04-070

PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed February 7, 1996, 10:47 a.m.]

Subject of Possible Rule Making: Establishment of teacher competencies in the instruction of braille to legally blind and visually impaired students, new section WAC 180-16-238 Assignment of persons providing instruction of braille to students.

Statutes Authorizing the Agency to Adopt Rules on this Subject: ESHB 1410 (chapter 18, Laws of 1995 2nd sp. sess.), RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESHB 1410 requires the State Board of Education to establish teacher competencies in the instruction of braille to legally blind and visually impaired students.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

February 7, 1996
Larry Davis
Executive Director

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

ARTICLE 1

POLICY, SHORT TITLE, AND DEFINITIONS

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 1.01 Policy

The ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority, ~~co-~~extensive with the boundaries of Benton ~~Franklin, and Walla Walla~~ County, has been activated by the Washington Clean Air Act, ~~Chapter 70.94 Revised Code of Washington (RCW)~~ RCW 70.94 as amended. The ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority, declared to be and directed to function as a ~~multi-~~ single county authority, adopts this Regulation as well as ~~Chapter 70.94 RCW~~ RCW 70.94 as amended to control the emissions of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority to secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal clean air act, to prevent injury to plant and animal life and to property, to foster the comfort and convenience of its inhabitants, to promote the economic and social development of the County and to facilitate the enjoyment of the natural attractions of the County.

It is further the intent of this Regulation to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.

This Regulation adopts the ~~Revised Code of Washington (RCW)~~ and Washington Administrative Codes (WAC) to the extent applicable to this Authority. ~~This Authority has included additional requirements to the adopted codes where the Authority deems it necessary.~~ When the Benton County Clean Air Authority judges it necessary, specific local provisions are adopted to implement the above laws.

Section 1.02 Name of Authority

The name of the County Air Pollution Control Authority, ~~co-~~extensive with the boundaries of Benton ~~Franklin, and Walla Walla~~ County, shall be known as the "~~BENTON FRANK-~~

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~~LIN WALLA WALLA County AIR POLLUTION CONTROL AUTHORITY~~ "BENTON COUNTY CLEAN AIR AUTHORITY."

Section 1.03 Short Title

This ~~Regulation~~ shall be known and cited as "Regulation 1 of the ~~Benton Franklin Walla Walla County Air Pollution Control Authority.~~" Benton County Clean Air Authority" (hereinafter referred to as the BCCAA or the Authority).

ARTICLE 2

GENERAL PROVISIONS

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 2.01 Powers and Duties of the Board

Pursuant to the provisions of the ~~"Washington Clean Air Act"~~ RCW 70.94, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with ~~the State Act~~ RCW 70.94 and other applicable laws. The Board may take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source. The Board shall appoint a Control Officer competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of this Regulation and all ordinances, orders, resolutions, or rules and regulations of this Authority pertinent to the control and prevention of air pollution in the ~~County.~~

The Board shall have the power to hold hearings relating to any aspect of, or matter in, the administration of this Regulation and in connection therewith issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, rules, or orders and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, or orders and regulations shall be made after due consideration at a public hearing held in accordance with ~~Chapter 42.30~~ RCW 42.30, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, or orders and regulations as soon as adopted by the Board. (See RCW 70.94.141)

Section 2.02 Control Officer's Duties and Powers

- A. The Control Officer and/or his authorized agents shall observe and enforce the provisions of the ~~State Law~~ RCW 70.94 and other applicable laws and all orders, ordinances, resolutions, or rules and regulations of the Authority pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.
- B. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned to him and to incur necessary expenses within the limitations of the budget.

- C. The Control Officer shall maintain appropriate records and submit reports as required by the Board, the appropriate State Agencies, and the appropriate ~~Federal Agencies~~.
- D. The Control Officer may engage, at the Authority's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source within the Authority's jurisdiction.
- E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter, at reasonable times, upon any private or public property, excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer or his duly authorized representatives who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. (RCW 70.94.200)
- F. If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

Section 2.03 Confidential Information

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Authority, pursuant to ~~Chapter 70.94~~ RCW 70.94, relate to processes or production unique to the owner or operator, or is likely to adversely affect the competitive position of such owner or operator if released to the public or to a competitor and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Washington State Department of Ecology (Ecology) or the Authority. (RCW 70.94.205)

Section 2.04 Violations

- A. At least thirty days prior to the commencement of any formal enforcement action under ~~Chapter 70.94.430~~ RCW 70.94.430 or ~~Chapter 70.94.431~~ RCW 70.94.431 the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the ~~State Law~~ RCW, the WAC's or of this Regula-

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tion alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

Section 2.05 Orders and Hearings

- A. Any order issued by the Board or by the Control Officer, which is not preceded by a hearing, shall become final unless such order is appealed to the Hearings Board no later than thirty (30) days after the date the notice and order are served. All petitions of appeal from the notice and order are to be filed with the offices of the Pollution Control Hearings Board of Washington. (~~Chapter 43.21B~~ RCW 43.21B)

Section 2.06 Appeals from the Board, Judicial Review

- A. Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order, a notice of appeal is filed with the Hearings Board as provided in RCW 43.21 (~~B~~).
- B. Any order issued by the Board after the hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of ~~Chapter 34.04~~ RCW RCW 34.05 and now or hereafter amended. When such a petition is filed, the Superior Court shall initiate a hearing pursuant to ~~RCW 34.04.130~~ RCW 34.05.570 within ninety days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate courts as soon as possible. Such appeals shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.

Section 2.07 Status of Orders and Appeals

- A. Any order of the Board or the Control Officer shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.
- B. Nothing in this Regulation shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

Section 2.08 Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, Or Mutilation Prohibited

- A. No person shall willfully make a false or misleading statement to the Board or their authorized representatives as to any matter within the jurisdiction of the Board.
- B. No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate or other paper issued by the Agency if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.
- C. Any order or registration certificate required to be obtained by this Regulation shall be available on the premises designated on the order or certificate, unless otherwise authorized by the Authority.
- D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board.

Section 2.09 Service of Notice

- A. Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent as follows:
1. Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order of registration certificate or at the address where the equipment is located, by United States Postal Service Certified Mail, return receipt requested, or,
 2. By leaving the notice with owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, then a member of the partnership or other concerned or with an officer or managing agent of the corporation.
- B. Service of any written notice required by this Regulation shall be made to the Authority as follows:
1. Either by mailing the notice in a prepaid envelope directed to the Authority at its office, by United States Postal Service Certified Mail, return receipt requested, or
 2. By leaving the notice at the Authority office with an employee of the Authority.

Section 2.10 Severability

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of ~~Directors~~ would have enacted the Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid. (RCW 70.94.911)

Section 2.11 Penalties

- A. Criminal Penalties
1. Any person who knowingly violates any of the provisions of ~~Chapter 70.94~~ RCW 70.94 or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and

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upon conviction is subject to punishment by a fine or by imprisonment in the county jail or by both fine and imprisonment as provided by ~~Chapter 70.94~~ RCW 70.94 for each separate violation.

2. Any person who negligently releases into the ambient air any substance listed by the ~~Department of Ecology~~ as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by ~~Chapter 70.94~~ RCW 70.94.
3. Any person who knowingly releases into the ambient air any substance listed by the ~~Department of Ecology~~ as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by ~~Chapter 70.94~~ RCW 70.94.
4. Any person who knowingly fails to disclose a potential conflict of interest under ~~Chapter 70.94.100~~ RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by ~~Chapter 70.94~~ RCW 70.94.

B. Other Penalties

1. a. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of ~~Chapter 70.94~~ RCW 70.94 or any of the rules and regulations of the ~~Department of Ecology~~ or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by ~~Chapter 70.94~~ RCW 70.94 for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.
 - b. Any person who fails to take action as specified by an order issued pursuant to ~~Chapter 70.94~~ RCW 70.94 or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by ~~Chapter 70.94~~ RCW 70.94 for each day of continued noncompliance.
2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by ~~RCW 19.52.020~~ RCW on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall

not begin to accrue until the thirty-first day following final resolution of the appeal.

3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.
4. The penalty is due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in ~~Chapter 43.21-B~~ RCW 43.21B. When a request is made for a hearing, the penalty is due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid within thirty days after it becomes due and payable, and a request for a hearing has not been made, the Board or Control Officer, shall bring an action to recover such penalty. The penalties provided by ~~Chapter 70.94~~ RCW 70.94 and this section are imposed pursuant to ~~Chapter~~ RCW 43.2-B.300 RCW.
5. All penalties recovered under this section by the Authority are payable to the treasury of the Authority and credited to its funds.
6. To secure the penalty incurred under this section, ~~the State Ecology~~ or the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in ~~Chapter~~ RCW 60.36.050 RCW.
7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee owed.

Section 2.12 Restraining Order - Injunction - Other Court Order

Notwithstanding the existence or use of any other remedy whenever any person has engaged in, or is about to engage in, acts or practices which constitute or will constitute a violation of any provision of this ~~Regulation~~ or any rule, regulation or order issued by the Board or Control Officer or his authorized agent, the Board, or their designee, after notice to such person and an opportunity to comply, may petition the County Superior Court for a restraining order or a temporary or permanent injunction or another appropriate order. (RCW 70.94.425)

ARTICLE 3

VARIANCES, WHEN PERMITTED

Adopted: ~~October 7, 1993~~Revised: ~~November 18, 1993~~(Reserved)

Section 3.01 Variances

A. ~~Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:~~

1. ~~The emissions occurring or proposed to occur do not endanger public health or safety; and~~
2. ~~Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.~~

B. ~~No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.~~

C. ~~Any variance or renewal thereof shall be granted within the requirements of Subsection A and for a time period and under conditions consistent with the reasons therefore, and within the following limitations:~~

1. ~~If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.~~
2. ~~If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.~~
3. ~~If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2, it shall be for not more than one (1) year.~~

D. ~~Any variance granted pursuant to this section may be renewed on terms and conditions and for period which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.~~

E. ~~A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial of the terms and conditions of the granting of an application for a variance or renewal of the variance by the Board, may obtain judicial review thereof only under the provisions of Chapter 43.21B RCW.~~

F. ~~Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)~~

ARTICLE 4

Air Operating Permits

ADOPTED: ~~August 18, 1994~~EFFECTIVE: ~~September 22, 1994~~(Reserved)

Section 4.01 Fee Assessment

~~All eligible sources under WAC 173-401 shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.~~

ARTICLE 5

Open Burning

ADOPTED: ~~October 7, 1993~~EFFECTIVE: ~~November 18, 1993~~Section 5.01 (Reserved) WAC Adoption by Reference.

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-425, "Open Burning."~~

Section 5.02 Additional Requirements of this Authority Authority Implementation

- A. Open burning in Benton County will be regulated using the "General Rule Burn" permitting system described in WAC 173-425-070. This system, which provides a limited number of days when open burning is allowed, will be implemented and enforced by the BCCAA within all city limits and

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urban growth areas in Benton County. The BCCAA will provide a spring window and fall window when burn days will be specified as established by WAC 173-425-070 or Board decision. Within each window, the BCCAA will make daily burn decisions based on current monitoring and meteorological information. This information will be provided daily on a published burn-message phone line, and/or through the local media. Open burning is restricted at all other times throughout the year, except as defined in Section 5.02 (B) and (C), or with a Special Burn Permit as described in Section 5.02(F) below.

B. For all areas within Benton County which are outside of all city limits and urban growth areas, open burning for residential purposes may be conducted without a permit (or permission) and without the payment of a fee except for those outlined in Section 5.02 (D)(2), (8), (9), and (F)(2) below.

~~C. For areas within the jurisdiction where burning is allowed, the Authority will make daily "burn" or "no burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.~~

C. There are no restrictions on burning tumbleweeds which have been blown by the wind, regardless of location within Benton County or the current "burn day" status.

D. A person burning under this section must follow these requirements and restrictions:

1. Unless otherwise specified, on "burn days" open burning may be conducted in areas where open burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
2. The fire must not include the following materials: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or obnoxious odors.
3. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
4. No fires are to be within fifty feet of structures.
5. The pile must not be larger than four feet by four feet by three feet.
6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.
7. No outdoor fire is permitted in or within 500 feet of forest slash.
8. If the fire creates a nuisance, it must be extinguished.
9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.

E. No open burning shall be allowed on ~~construction or demolition~~ sites where active construction or demolition activities are occurring.

F. Special burning permits

1. No building, structure, or vessel may be demolished by intentional burning, either for demolition or for fire training, without a written approval, in the form of a special burning permit, from the Authority. The special permit will contain restrictions regarding prohibited materials, fire safety, asbestos removal or demolition, and other restrictions as deemed necessary. Special burn permits shall be subject to a fee as described in Section 10.09.
2. No burning of large quantities of unprocessed or processed natural vegetation, except as provided under Section 5.02(D), accumulated from land clearing or other activities or events is allowed except by written special permit from the Authority. Special burning permits will specify restrictions and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in 173-430-020 on commercially viable agricultural enterprises is exempted.
3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a Request for Special Burning Permit (RSBP) at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in ~~Article 10~~, Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The RSBP must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

ARTICLE 6 Agricultural Burning

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 6.01 (Reserved) ~~WAC Adoption by Reference.~~

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-430, "Agricultural Burning."~~

Section 6.02 ~~Additional Requirements of this Authority~~ Authority Implementation

A. For the purpose of this section agricultural burning does not include incidental agricultural burning as listed in RCW 70.94.745. All other agricultural

burning of more than ten (10) acres annually requires a written agricultural burning permit.

- B. Agricultural burning permit applications and agricultural burning permits for Benton County farmers are available from the BCCAA and are subject to the fees described in Section 10.10.
- C. Agricultural burning will be allowed only on designated "burn days." The Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.
- D. A person burning under this section must follow these requirements and restrictions:
 1. Unless otherwise specified, on "burn days" agricultural burning may be conducted in areas where burning is allowed only between the hours of 9 a.m. and one hour before sunset.
 2. It is the responsibility of those conducting agricultural burning to be informed of any additional fire safety rules as determined by their local fire district or county.

ARTICLE 7

Solid Fuel Burning Device Standards

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 7.01 (Reserved) WAC Adoption by Reference.

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-433, "Solid Fuel Burning Device Standards."~~

Section 7.02 Additional Requirements of this Authority Authority Implementation

- A. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install any an uninstalled used uncertified woodstove within the Authority's jurisdiction.

**ARTICLE 8
Asbestos**

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 8.01 CFR Adoption by Reference.

This article adopts all provisions of the following Code of Federal Regulations (CFR) by reference and makes it a part of Regulation 1 of this Authority: **40 CFR 40 Part 61 Subpart M "National Emission Standard for Asbestos."**

Section 8.02 Additional Requirements of this Authority Authority Implementation

A. Definitions

1. Residential asbestos projects are defined as the renovation of any residential unit component or contents containing category I and II non-friable asbestos containing material (ACM) or regulated asbestos containing material

(RACM), as defined in CFR 40 Part 61 Subpart M occurring in or on a residential unit.

2. Residential units are defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room." This term does not include any ~~mixed-use building, structure, or installation~~ facility that contains a residential unit.
- B. ~~All Section 8.01 requirements asbestos removal projects under Section 8.01 and those which do not fall under Sections 8.01 or 8.02(B) but shall apply Section 8.01 to all asbestos removal renovation and demolition projects that are greater than 20 48 square feet or 35 10 linear feet, (unless the surface area of the pipe is greater than forty-eight feet) and are subject to the notification requirements and fee schedule described in Section 10.07.~~
- C. Operators (Certified Asbestos Abatement Contractors) who perform residential asbestos projects are subject to the requirements of Section 8.03(A) only when RACM is involved.
- D. Only resident owners and certified asbestos abatement contractors may conduct residential asbestos projects.
- E. Resident Owners performing their own or operators of residential asbestos projects for ACM and/or RACM are exempt from Section 8.01, but are subject to the following restrictions: requirements:
 1. A written notification on forms provided by the Authority shall be submitted to the Authority ten (10) working days prior to the asbestos removal.
 2. A filing fee as described in Section 10.07 of this ~~Regulation~~ shall accompany the written notice.
 3. The owner ~~or operator~~ of ~~the a~~ residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program ~~will~~ may include, but may not be limited to:
 - a. Watching an informational video,
 - b. Agreement to read and understand informational pamphlets, provided by the Authority, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the Authority.
 4. If after reviewing the notification form, interviewing the applicant about methods of removal and disposal, and inspecting the site as deemed necessary, the Authority may grant permission for owner or operator, or require a certified asbestos contractor to perform removal.

- F. All residential demolition projects are subject to the provisions of 8.01.

Section 8.03 Unexpected Discovery of Asbestos

- A. In the event of an unexpected discovery of asbestos during a renovation or demolition project, which was originally thought to contain no asbestos, the requirements of either Section 8.01 or 8.02 are applicable, and all work must stop until these requirements have been met.
- B. During an approved renovation or demolition project, if an unexpected discovery of additional asbestos is made which increases the project by 20% or greater than originally reported, an amendment or emergency waiver form must be filed with the Authority before work may continue.

Section 8.04 Emergency Safeguards for the Public in the Case of Asbestos Spills or Scattering of Suspected Asbestos Material

- A. In all such instances the suspected material shall be considered asbestos, and treated with proper precautions until such time as it is determined not to contain asbestos.
- B. Immediate action shall be taken to contain the spill and to prevent entry of unprotected and/or unauthorized persons; methods shall include but are not limited to:
 - 1. Roping off contaminated areas, danger signs may be considered appropriate in open areas.
 - 2. Locking or barring doors in buildings.
- C. A call shall be placed to the appropriate emergency response center to provide them with the necessary information so that they may notify the BCCAA and/or respective law enforcement agency on an emergency basis.

**ARTICLE 9
Source Registration**

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

Section 9.01 Registration Required

The classes of air contaminant sources listed in Exhibit "A" below shall be registered with the Authority.

Section 9.02 General Requirements for Registration

- A. Registration of an installation or facility shall be made by the owner or lessee of the source, or agent of the owner, lessee or source, on forms furnished by the Authority. The owner or lessee of the source ~~and lessee are~~ is responsible for registration and for the accuracy of the information submitted.
- B. A separate registration shall be required for each source. The owner or operator shall register each facility with a detailed inventory of emission points, emission type, and quantity of emissions.
- C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee, and returned with the appropriate fee. Penalties can be assessed for non-compliance in accordance with ~~Article 2~~, Section 2.11 (B)(7).

EXHIBIT "A"

1. All sources required to register according to ~~WAC 173-400-100 Registration under~~ General Regulations for Air Pollution Sources.
2. All facilities required to register according to ~~WAC 173-491-030 Registration under~~ Emission Standards and Controls for Sources Emitting Gasoline Vapors.
3. Any source or emission unit as defined in ~~WAC 173-400-030 (63) and (24), respectively,~~ with an emission greater than or equal to 20% of the amount of the regulated pollutants listed in ~~WAC 173-400-030 (64)~~ excluding "major sources" as defined in ~~WAC 173-401-200 (18)~~.
4. Any existing stationary source, which if new, the federal standard of performance (NSPS) would be applicable according to ~~WAC 173-400-115 Standards of Performance for New Sources.~~
5. Any existing source, which if new, would be subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS).
6. Any new or existing source of toxic air pollutants as defined in ~~WAC 173-460-020 (6) and (7),~~ which exceeds small quantity emission rates defined in ~~WAC 173-460-080 (2)(e).~~ ~~{WAC 173-460 Controls for New Sources of Toxic Air Pollutants}.~~
7. Any new source category ~~required to undergo,~~ and any existing source, which if new, would be required by ~~WAC 173-400-110~~ to undergo New Source Review ~~(WAC 173-400-110).~~
8. Permanently located abrasive blasting operations.
9. Dry cleaners and dry cleaning plants.
10. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 1,000,000 BTU per hour.
11. Insulation manufacturers.
12. Metal plating and anodizing operations.
13. Plastics and fiberglass fabrication facilities.
14. Permanently located surface coating operations including but not limited to coating of vehicles, metal, wood, plastic, rubber, or glass.
15. Permanently located vapor and gas collection systems including liquid stripping and flares.
16. Waste oil burners except waste oil burners used for space heating and which have an input not to exceed ~~0.5 million~~ 500,000 BTU ~~per~~ per hour provided that such burners are operated in accordance with ~~WAC 173-303-515.~~
17. Corpus crematoriums.

**ARTICLE 10
Fees and Charges**

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

PROPOSED

Section 10.01 Fees and Charges Required

A fee or service charge shall be paid to the Authority for issuance of permits and for providing services as hereinafter provided.

Section 10.02 Fees Otherwise Provided

All fees and charges provided for in this Article are in addition to fees otherwise provided for or required to be paid by Regulation 1, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if such fee ~~duplicates~~ ~~is duplicative of~~ a fee charged or required to be paid by another Article of this ~~Regulation~~.

Section 10.03 Fee Waiver, Indigency

The Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver, Indigency Form supplied by the Authority.

Section 10.04 General Administrative Fees

- A. A fee of twenty-five cents (\$0.25) per page shall be charged for photocopies.
- B. A fee of twenty dollars (\$20.00) per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopied for requests covering more than ten pages.
- C. The actual cost of postage or shipping shall be charged for all material requested to be mailed.
- D. For other administrative services requested and performed by Authority staff which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.

Section 10.05 Registration Fees for Air Contaminant Sources

- A. The Authority shall charge an annual registration fee pursuant to RCW 70.94.151. The Authority shall levy annual registration fees for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.
- B. All air contaminant sources required by ~~Article 9~~ Section 9.02, EXHIBIT "A" to be registered shall be divided into the following three categories and are subject to the applicable fee:
 1. Class 1 sources are defined as all sources emitting pollutants, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 sources shall pay an annual registration fee of one hundred dollars (\$100.00) at the time of registration.
 2. Class 2
 - a. Class 2 sources shall pay an annual registration fee at the time of registration. In

no case shall the fee so calculated be less than three hundred fifty dollars (\$350.00) per year.

- b. Sources emitting a base amount of more than 20% of the amount of the regulated pollutants listed in the definition of significant emissions in WAC 173-400-030 ~~(61)~~, except major sources as defined in WAC 173-401-200 ~~(18)~~ which are eligible for the Federal Clean Air Act Title V air operating permits ~~(Article 4)~~. For these emission sources, the Class 2 fee shall be an amount equal to the average ~~BFWWC~~ APCA BCCAA "per ton" fee for air operating permittees times the actual tons of pollutants emitted each year in excess of the above defined base amount.
 - c. Class 2 toxic sources are those sources emitting more than ~~±~~ one ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-020~~(6) & (7)~~ except major sources ~~{See Section 10.05 (B)(2)(b)}~~. The Class 2 fee for sources emitting toxic pollutants shall be an amount equal to the average ~~BFWWC~~ APCA BCCAA "per ton" fee for air operating permittees times the actual tons of toxic pollutants over the above defined base amount times a factor of seven (7).
3. Class 3 sources are those sources which meet the requirements for permitting under the air operating program as described in ~~Article 4~~ WAC 173-401. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.
- C. All gasoline facilities required by ~~Article 9~~ Section 9.02, EXHIBIT "A" to be registered shall register annually in accordance with WAC 173-491-030 and pay the following annual fees:
 1. Gasoline Loading Terminals five hundred dollars (\$500.00),
 2. Bulk Gasoline Plants two hundred dollars (\$200.00), and
 3. Gasoline Dispensing Facilities one hundred dollars (\$100.00).

Section 10.06 Application and Permit Fees for Notice of Construction and Application for Approval and for Notice of Intent to Install and Operate a Temporary Source

- A. All construction under RCW 70.94.152 and 153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of fifty dollars (\$50.00) shall be paid at the time of filing the NOC. If the registration fee required in Section 10.05 also applies to the construction, the filing fee shall be waived.
- B. For portable air contaminant sources which locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate a Tempo-

rary Source and Application for Approval (NIO) must be filed with the Authority. A fee of one hundred dollars (\$100.00) shall be paid at the time of filing the NIO Notice of Intent to Operate.

- C. In addition to the filing fees provided in Section 10.06 (A) and (B) "A" and "B" above, when an inspection is deemed necessary by the Authority, a plan review and inspection fee shall be paid at a rate equal to the hourly rate of the Authority's Air Operating Permit Engineer for a period not to exceed 10 hours.
- D. State Environmental Policy Act (SEPA) fees under WAC 197-11. For every environmental checklist the Authority reviews when it is Lead Agency, the applicant shall first pay the threshold determination fee of fifty dollars (\$50.00) prior to undertaking the threshold determination by the responsible official of the Authority. If the Authority decides it must prepare a statement in order to comply with the State Environmental Policy Act SEPA before taking any action on a NOC Notice of Construction, the cost of preparing, publishing, and distributing such a statement at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.
- E. The cost of publishing a public notice (~~as defined in WAC 403-110~~) shall be borne by the applicant or other initiator of the action.
- F. When an operation for which an ~~Notice of Intent to Operate~~ NIO is required commences prior to making application and receiving approval, the Control Officer or his authorized agent may conduct an investigation as part of the Notice of Intent NIO review. In such a case, an investigation fee of three hundred dollars (\$300.00) shall be paid in addition to all other required fees in Section 10.06. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

Section 10.07 Asbestos

- A. Any owner or operator of a renovation or demolition activity required by federal regulation CFR 40 Part 61 Subpart M or Article 8 of this Regulation to notify the Authority prior to starting the removal renovation or demolition, or required by Federal Rregulation to be approved or inspected by the Authority, shall give the required advance notice and pay a processing fee to the Authority determined by the following:
1. All single renovation or demolition projects under Section 8.01 or Section 8.02(A-B), require a ten (10) working day advance notification on a written "Notice of Intent to Remove or Encapsulate Asbestos Materials," and a fifty dollar (\$50.00) fee.
 2. Annual notices under Section 8.01, and within the notification requirements of Section

8.02(B), require ten (10) working day advance notification, an annual written application for approval, and a three hundred dollar fee-of (\$300.00) fee.

3. An amendment under Section 8.01 or Section 8.02 to an approved ~~asbestos project renovation or demolition~~ requires prior notification, an amended application, and a twenty-five dollar (\$25.00) fee for the 2nd amendment and any thereafter.
4. An emergency under Section 8.01 or Section 8.02 requires prior notification, an Emergency Waiver Request Letter submitted by the property owner or operator, a Notice of Intent to Remove Asbestos, and a fifty dollar (\$50.00) emergency fee as well as the normal application fee described in this Section.
5. A residential asbestos ~~removal~~ project under Section 8.02 requires ten (10) working day advance prior notification, and on a Residential Asbestos Removal Form "Notice of Intent to Remove Asbestos Materials," form accompanied by a filing fee of ~~\$50.00~~ ten dollars (\$10.00).
6. A demolition project under Section 8.01 and 8.02(F) which contains no asbestos requires ten (10) working day advance notification.

Section 10.08 Operating Permit Fees

All eligible sources under WAC 173-401 shall be subject to the annual fees described in this section.

A. Interim Fee

1. ~~Pursuant to RCW 70.94.161(14), the Authority shall collect interim fees from sources emitting one hundred or more tons per year of a regulated pollutant during fiscal year 1994 (July 1, 1993 to June 30, 1994), or until this Authority receives delegation to issue permits from the Environmental Protection Agency.~~
2. ~~Pursuant to RCW 70.94.161, the Authority shall determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing the operating permit program. Ecology, too, will conduct a workload analysis determining its fiscal year 1994 costs and must allocate these costs among all sources in the state emitting one hundred tons or more of a regulated pollutant. The resulting fee is to be collected on behalf of Ecology by the local authority having jurisdiction over the particular source. Therefore, along with the local program fees, the Authority will also collect Ecology's development and oversight fees, and pass them on to Ecology.~~
3. ~~The fee schedules developed shall fully cover and not exceed the permit administration costs and the program development and oversight costs. Both Ecology's and this Authority's fees are based on a 3 tier scale using fiscal year 1994 costs, and calendar year 1992 emis-~~

~~sions data. The three tier formula used to assess fees for a given source includes:~~

- ~~a. The number of sources in the permit program;~~
- ~~b. The complexity of the source;~~
- ~~c. The amount of emissions of regulated pollutants from the source.~~

~~Each category shall comprise one third (1/3) of the total fees collected by the Authority.~~

~~B.~~ Permanent annual fee determination and certification

1. Fee Determination

- a. Fee Determination. ~~The Benton Franklin Walla Walla County Air Pollution Control Authority (BFWWC-APCA)~~ BCCAA shall develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover all permit administration costs. ~~The BFWWC-APCA~~ BCCAA shall also collect its jurisdiction's share of ~~the Washington State Department of Ecology's (Ecology)~~ development and oversight costs. The fee schedule shall differentiate as separate line items the ~~BFWWC-APCA~~ BCCAA's and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in Section 10.08 (B)(A)(3)(a)

- b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.

- i. Permit Administration. Permit administration costs are those incurred by ~~BFWWC-APCA~~ BCCAA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:

- A. Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;
- B. Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;
- C. Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the

processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

- D. Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;
- E. Modeling necessary to establish permit limits or to determine compliance with permit limits;
- F. Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;
- G. Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;
- H. Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;
- I. The share attributable to permitted sources of the development and maintenance of emissions inventories;
- J. The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;
- K. Training for permit administration and enforcement;
- L. Fee determination, assessment, and collection, including the costs of necessary administrative dispute

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- resolution and penalty collection;
- M. Required fiscal audits, periodic performance audits, and reporting activities;
 - N. Tracking of time, revenues and expenditures, and accounting activities;
 - O. Administering the permit program including the costs of clerical support, supervision, and management;
 - P. Provision of assistance to small businesses under the jurisdiction of the permitting authority as required under section 507 of the federal clean air act; and
 - Q. Other activities required by operating permit regulations issued by the United States environmental protection agency under the federal clean air act.
- ii. Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are ~~those enumerated~~ in Chapter 252, Laws of 1993 Section 6 (2)(b).
- c. Workload Analysis.
 - i. The ~~BFWWC-APCA~~ BCCAA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities ~~enumerated~~ in Section 10.08 ~~(B)(A)(1)(b)(i)~~.
 - ii. Ecology will for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08 ~~(B)(A)(1)(b)(ii)~~.
 - d. Budget Development. The ~~BFWWC-APCA~~ BCCAA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The ~~BFWWC-APCA~~ BCCAA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08 ~~(B)(A)(3)(a)~~. The ~~BFWWC-APCA~~ BCCAA shall publish a final budget for the following calendar year on or before June 30.
 - e. Allocation Methodology.
 - i. Permit Administration Costs. The ~~BFWWC-APCA~~ BCCAA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered model based upon:
 - (A) the number of sources under its jurisdiction;
 - (B) the complexity of the sources under its jurisdiction; and
 - (C) the size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted.

The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.
 - ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the ~~BFWWC-APCA~~ BCCAA, based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.
 - f. Fee Schedule. The ~~BFWWC-APCA~~ BCCAA shall issue annually a fee schedule reflecting the permit admin-

istration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with Section 10.08 (B)(A)(4).

2. Fee Collection - Ecology and ~~BFWWC~~ APCA BCCAA

a. Collection from Sources. The ~~BFWWC-APCA BCCAA~~, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.

i. Permit Administration Costs. The ~~BFWWC-APCA BCCAA~~ shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.

ii. Ecology Development and Oversight Costs. The ~~BFWWC-APCA BCCAA~~ shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.

b. Dedicated Account.

i. All receipts from fees collected by the ~~BFWWC-APCA BCCAA~~, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1); and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the dedicated accounts of its treasury. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.152(1); and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.

ii. All receipts from fees collected by ~~BFWWC-APCA BCCAA~~ on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1); and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the air operating permit account created

under RCW 70.94.015. Expenditures from the air operating permit account may be used only for the activities described in RCW 70.94.152(1); and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.

3. Accountability

a. Public Participation During Fee Determination Process. The ~~BFWWC-APCA BCCAA~~ shall provide for public participation in the fee determination process described under 10.08 ~~(B)(A)(1)~~, which provision shall include but not be limited to the following:

i. The ~~BFWWC-APCA BCCAA~~ shall provide opportunity for public review of and comment on:

- (A) each annual workload analysis;
- (B) each annual budget; and
- (C) each annual fee schedule

ii. The ~~BFWWC-APCA BCCAA~~ shall submit to Ecology for publication in the *Permit Register* notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.

iii. The ~~BFWWC-APCA BCCAA~~ shall make available for public inspection and to those requesting opportunity for review copies of its draft:

- (A) annual workload analysis on or before March 31.
- (B) annual budget on or before May 31.
- (C) annual fee schedule on or before December 31.

iv. The ~~BFWWC-APCA BCCAA~~ shall provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty 30 day period for comment shall run from the date of publication of notice in the *Permit Register* as provided in Section 10.08 (B)(A)(3)(a)(ii).

b. Tracking of Revenues, Time and Expenditures.

i. Revenues. The ~~BFWWC-APCA BCCAA~~ shall track revenues on a source-specific basis.

ii. Time and Expenditures. The ~~BFWWC-APCA BCCAA~~ shall

track time and expenditures on the basis of functional categories as follows:

- (A) application review and permit issuance;
 - (B) permit modification;
 - (C) permit maintenance;
 - (D) compliance and enforcement;
 - (E) business assistance;
 - (F) regulation and guidance development;
 - (G) management and training;
 - (H) technical support
- iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.
- (A) The ~~BFWWC-APCA~~ BCCAA shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.08 (B)(A)(1)(d)
 - (B) The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.
- c. Periodic Fiscal Audits, Reports and Performance Audits. A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evaluate Ecology's and ~~each delegated local~~ the Authority's operating permit program administration, as follows:
- i. Fiscal Audits. The ~~BFWWC-APCA~~ BCCAA shall contract with the State Auditor to ~~have the Auditor~~ perform a standard fiscal audit of its operating permit program every other year.
 - ii. Annual Routine Performance Audits. The ~~BFWWC-APCA~~ BCCAA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to Section 10.08 (B)(A)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the ~~local~~ Authority's audits.
 - iii. Annual Random Individual Permit Review. One permit issued by the ~~BFWWC-APCA~~ BCCAA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the ~~local~~ Authority's review.
 - iv. Periodic Extensive Performance Audits. The ~~BFWWC-APCA~~ BCCAA shall be subject to extensive performance audits every five years. In addition, this authority may be subject to an extensive performance audit more frequently under the conditions of Section 10.08 (B)(A)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this Authority.
 - v. Finding of Inadequate Administration or Need for Further Evaluation. If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the ~~BFWWC-APCA~~ BCCAA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in Section 10.08 (B)(A)(3)(c)(iv).
 - vi. Annual Reports. The ~~BFWWC-APCA~~ BCCAA shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The ~~BFWWC-APCA~~ BCCAA shall submit its report to its ~~Board of Directors~~ and to Ecology.
4. Administrative Dispute Resolution
- a. Preliminary Statement of Source Data. The ~~BFWWC-APCA~~ BCCAA shall provide to the permit program sources under their respective juris-

- dictions a preliminary statement of emissions and other data from that source upon which the authority intends to base its allocation determination under Section 10.08 (B)(A)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under Section 10.08 (B)(A)(4)(b) regarding the accuracy of the data contained therein.
- b. **Petition for Review of Statement.** A permit program source or other individual under the jurisdiction of the ~~BFWWC~~ APCA BCCAA, as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08 (B)(A)(4)(a). Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom the ~~BFWWC~~ APCA BCCAA may direct inquiries regarding the request. Upon receipt of such a petition, the ~~BFWWC~~ APCA BCCAA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the authority's response.
- c. **Final Source Data Statement.** The ~~BFWWC~~ APCA BCCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the local authority will base its allocation determination under Section 10.08 (B)(A)(1) along with an invoice reflecting the fee billed to that source on or before December 31 of each year.
5. **Fee Payment and Penalties**
- a. **Fee Payment.** Each permit program source shall pay a fee in the amount reflected in the invoice issued under Section 10.08 (B)(A)(4)(c). Such fee shall be due on or before February 28 of each year.
- b. **Late Payment of Fees.** ~~BFWWC~~ APCA BCCAA shall charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:
- i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
 - ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
 - iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.
- c. **Failure to Pay Fees.** The ~~BFWWC~~ APCA BCCAA shall charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.
- d. **Other Penalties.** The penalties authorized in Section 10.08 (B)(A)(5)(b) and (c), are additional to and in no way prejudice the ~~BFWWC~~ APCA BCCAA's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
- e. **Facility Closure.** Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant cal-

endar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.

- f. Transfer in Ownership. Transfer in ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.
6. Development and Oversight Remittance by Local Authorities to Ecology
- a. Ecology will provide to ~~each delegated local~~ the Authority a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.
- b. ~~Each delegated local~~ The Authority shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

Section 10.09 Special Open Burning Permits

- A. Anyone who submits to the Authority a ~~Request for Special Burning Permit (RSBP)~~ shall pay an application fee of fifty dollars (\$50.00).
- B. Upon approval of the RSBP the Authority will charge an additional fee at a rate determined by the volume of the material to be burned, and inspection and oversight costs. The additional fee shall not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to WAC 173-425. Special Open Burning Permits shall be valid for a period not to exceed one year, at which time the applicant may re-apply with another \$50.00 fee.

Section 10.10 Agricultural Burning Permits

- A. Upon approval of any agricultural burn permit application, the BCCAA will charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted to be burned. This fee is divided into a local and a state portion. One dollar (\$1.00) per acre of each fee will go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the fee will

go to the BCCAA for local administration and implementation of the program.

- B. The local portion of the agricultural burn permit fee will be seventy-five cents (\$0.75) per acre.
- C. Permits will only be issued upon receipt of full payment. Refunds may be issued by the BCCAA for acres not burned under each permit.

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 96-03-077
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(§) 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

NEW SECTION

WAC 230-02-162 Functional expenses defined. Functional expenses are those an organization incurs toward accomplishing its stated purposes. For purposes of calculation, this includes program service expenses, as defined by WAC 230-02-278, and supporting service expenses, as defined by WAC 230-02-279.

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

AMENDATORY SECTION (Amending Order 249 [WSR 94-01-035], filed 1/6/94 [12/6/93])

WAC 230-02-278 Program service((s)) expenses defined. ((For purposes of this title, ")) Program service((s" means)) expenses are those relating to providing care, support, or assistance to individuals, and/or sponsoring or conducting activities that directly relate to ((a charitable or nonprofit)) the organization's stated purposes. ((, when such services/activities are)) The following will be considered program service expenses:

(1) Services directly provided to the public or the organization's members through programs operated by the organization; or

(2) Services indirectly provided by:

(a) Making contributions to individuals or to other service-providing organizations ((for the charitable use of the public or the organization's members));

(b) Funding scholarships; or

(c) Sponsoring activities directly related to any organizational purposes set out in WAC 230-04-024 (1)(b).

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

NEW SECTION

WAC 230-02-279 Supporting services expenses defined. Supporting services expenses are those related to activities that are essential to the general operation of the organization's programs, but which are not directly identifiable to a specific program. These typically include management, general overhead, and any expenses related to the

solicitation of contributions. *Provided*, That supporting service expenses do not include extraordinary items which are unusual and infrequent in nature. The following expenditures shall be considered supporting service expenses:

- (1) Wages and benefits for general operation of the organization such as executive directors and other management or support personnel (secretarial, reception, bookkeeping, etc.);
- (2) Expenses related to providing an administrative office, including rent, depreciation, interest, utilities, taxes, insurance, and supplies;
- (3) General management functions of the organization such as planning (budget etc.), recruiting and training staff, and procuring and distributing materials;
- (4) Scheduling and conducting board, committee, and membership meetings;
- (5) Publicizing the organization: *Provided*, That solicitation of new members or volunteers, or announcements and publications intended to educate the public regarding services provided by the organization, shall be deemed to be program service expenses;
- (6) Outside supporting services such as accounting, audit, legal, etc;
- (7) General expenses related to the solicitation of contributions or grants; and
- (8) Any net loss from non-gambling fund raising activities.

NEW SECTION

WAC 230-02-137 Excessive reserves defined. An organization has excessive reserves if the total amount of the organization's cash, cash equivalents, or other assets that would not normally be associated with providing programs or fund raising activities is greater than the sum of:

- (1) The licensee's current liabilities (debts due within one year); plus
- (2) Total functional expenses during the most recently completed fiscal year; plus
- (3) The average net income or loss from combined gambling and retail sales conducted in conjunction with gambling activities for a three-month period, calculated by dividing annual net gambling and retail sales income or loss by four. *Provided*, That funds reserved to start or expand specific programs will be excluded from the computation of excessive reserves, as authorized by WAC 230-08-255(3), with approval by the commission's director.

AMENDATORY SECTION (Amending Order 249 [WSR 94-01-035], filed 12/6/93)

WAC 230-04-024 Bona fide charitable or nonprofit organizations—Minimum qualifications—Restrictions—Definitions. All ~~((applicants for certification))~~ organizations requesting to be certified to conduct gambling activities ~~((as))~~ for charitable or nonprofit ~~((organizations))~~ purposes must provide conclusive evidence ~~((upon initial application and annually thereafter))~~ that they are qualified under the requirements of RCW 9.46.0209 and formed and operated for purposes other than to conduct gambling activities. Each applicant shall comply with all of the following requirements and restrictions:

(1) An organization must be a bona fide charitable or nonprofit organization and have been formed and operated for the following purposes in order to conduct gambling activities:

- (a) Any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW;
- (b) Any organization, whether incorporated or not, which has been formed and operating exclusively for one or more of the purposes set out in WAC 230-02-155 and/or 230-02-161;
- (c) Any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the Armed Forces of the United States and to carry on a system of national and international relief to reduce the suffering caused by pestilence, famine, fire, floods, and other national calamities;
- (d) An incorporated city or town in the state of Washington; or
- (e) A branch or chapter of a parent organization, when such parent organization is itself eligible for licensure. A branch or chapter must demonstrate to the satisfaction of the commission that it has not been formed and operated for purposes of conducting gambling activities and is in its own right qualified to obtain the license sought. The director may require an affidavit signed by the chief executive officer of the parent organization certifying that the branch or chapter is a bona fide subdivision of the parent organization.

(2) An organization must have been organized and continuously operating for at least twelve months prior to ~~((submission of an initial or annual certification application))~~ submitting a request to be certified. For purposes of this section, "continuously operating" means that during the immediate twelve months preceding the ~~((application))~~ request, the organization has provided ~~((program))~~ services to members or the public which directly relate to its stated purposes ~~((or was actively involved in soliciting funds for providing program services from nongambling sources))~~: *Provided*, That if the organization's sole function during the immediate twelve months ~~((preceding the application))~~ has been fund raising for purposes of providing future services, it may be deemed to have ~~((not))~~ been "continuously operating" for purposes of this section;

(3) An organization must have at least fifteen active members as defined by WAC 230-02-183, each with an equal vote in elections of officers or board members who determine the policies of the organization;

(4) An organization must have demonstrated that ~~((they have))~~ it has made significant progress, measured as set forth in WAC 230-08-255, toward meeting its stated purposes during the twelve consecutive month period preceding ~~((initial application or annual certification))~~ a request to be certified. ~~((For purposes of this section, "significant progress" means an organization has complied with requirements set out in its bylaws and/or articles of incorporation and has actively engaged in providing program services to the public or members during the entire period under consideration. Such activities will be deemed significant when an organization utilizes a majority of resources it has available, including gambling proceeds, for providing program services. Any organization requesting certification to operate gambling activities in Group II or Group III, as defined in WAC 230-~~

04-040, shall demonstrate it has made "significant progress" by meeting the requirements of WAC 230-08-255;))

(5) An organization must ensure that salaries or wages, if paid, are:

(a) Necessary to economically conduct the activities of the organization; and

(b) Reasonable when compared to the local prevailing wage scale for similar positions(~~(:—Provided, That)~~). For purposes of this section, "similar position" means a type or classification of position that has a predominance of characteristics, duties, and/or responsibilities that closely approximate those of the position being compared and which the scope of duties and responsibilities are at the same approximate level. Organizations that pay salaries or wages, that are not reasonable when compared to similar positions in the general area of employment, shall be deemed as paying salaries and wages that are directly or indirectly based on gambling receipts received.

(6) An organization must take positive steps to ensure the assets of the organization are protected from misuse, dedicated solely to the purposes of the organization, and do not inure to the benefit of private individuals;

(7) An organization must provide in its bylaws or, if incorporated, in its articles of incorporation, a statement that upon dissolution all assets of the organization remaining after satisfaction of all its debts must be distributed to another bona fide nonprofit or charitable organization qualified under RCW 9.46.0209;

(8) An organization shall not accumulate excessive reserves, as defined in WAC 230-02-137 (~~(in the form of cash or other assets, not directly related to its organizational purpose(s))~~). Organizations (~~(demonstrating)~~) accumulating excessive reserves may be deemed as ((being)) organized primarily for purposes of gambling. Reserves shall be computed by utilizing the most recently filed financial data, as required by WAC 230-08-122. ((For the purposes of this subsection, the following definitions apply:

(a) Organizational purpose(s) — one or more of the lawful purposes contained in RCW 9.46.0209 for which an organization is formed and operated;

(b) Excessive reserves — an amount that is greater than the sum of the licensee's current liabilities (debts due within one year), plus an amount that is not more than total expenditures for providing program services during the most recently completed fiscal year, plus an amount that is not more than the average net income from combined gambling activities, including any sales activities conducted in conjunction with the gambling activity, such as a snack bar, for a three-month period. This computation shall be based on the most current financial data on file with the commission as required by WAC 230-08-122(2): ~~Provided, That funds reserved with the director's approval, as authorized by WAC 230-08-255(3), will be excluded from the computation of excessive reserves: ~~Provided further, That~~~~) Funds transferred to an endowment or specifically restricted trust fund will not be treated as reserves for purposes of this section if the following restrictions are observed:

(a) The endowment or specifically dedicated trust fund is either legally irrevocable or restricted in a manner that approval is required by a majority of the membership prior to use or transfer of the (~~(principle))~~ principal or corpus;

(b) The funds are expressly dedicated for funding new programs, capital projects, or to endow (~~(program))~~ service((s))-providing activities;

(c) The funds are saved according to a plan that includes the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used;

(d) The plan is approved by the organization's officers or board of directors and (~~(the commission))~~ documentation pertaining to the endowment or trust fund is submitted to the commission for review and approval; and

(e) The total amount of net gambling ((proceeds)) income that is transferred to endowment((s)) or trust funds, in combination, does not exceed two million dollars: Provided, That an organization may petition the director to exceed this limitation. The director may approve the petition as requested, disapprove with written comments, or approve a modified level based on facts presented. The director's decision may be appealed to the commission. Appeal of this decision will be heard at a regular public meeting of the commission under the requirements of WAC 230-50-850. The commission's decision shall be final. Petitions for relief under this section shall include: The reason for the request, including whether the increased reserves are for charitable or nonprofit purposes and planned time-lines for use; the total amount of reserves requested; the impact on programs if the petition is denied; and alternative sources of funding available);

~~((40))~~ (9) An organization must maintain records to support compliance with the (~~(above))~~) requirements of this section. Such records shall be completed per WAC 230-08-010, and include details necessary to allow reasonable confirmation of compliance by commission staff. At least the following records shall be maintained:

(a) Official minutes of all membership and board meetings including issues discussed, decisions made, and members in attendance;

(b) A listing of the names of all members. Full names, addresses, telephone numbers, and the dates they became a member must be provided for all "active members";

(c) A copy of the most recently approved articles of incorporation and bylaws; and

(d) All correspondence with the Internal Revenue Service and the secretary of state regarding the organization's status as a nonprofit organization.

~~((41))~~ (10) Incorporated cities or towns, authorized by subsection (1)(d) of this section, are exempted from the requirements of subsections (5), (6), (7), (8), (~~(and))~~ (9), and (10) of this section.

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

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

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.

PROPOSED

AMENDATORY SECTION (Amending Order 240, filed 6/17/93)

WAC 230-04-040 Certification procedure—Charitable and nonprofit organizations—Additional information required. ~~((1) Any organization requesting a license to conduct bingo in Group I or any organization requesting a license to conduct non-bingo activities with annual gross gambling receipts of less than \$500,000 gross gambling receipts, shall submit the information required in the annual certification report pursuant to WAC 230-08-122(1) as a condition of certification)).~~

~~((2) Any organization requesting a license or license upgrade to conduct bingo in Group II or III, or to conduct any other gambling activity in excess of \$500,000 gross gambling receipts, shall submit the information required in the annual certification report pursuant to WAC 230-08-122 (1), (2), and, if applicable, (3) as a condition of certification.~~

~~(3)) Any organization not currently licensed to conduct ((bingo in any class and applying for a class D or above license or applying for a bingo license for any class and)) gambling activities and requesting to be certified to conduct gambling activities in Group III, IV, or V, or planning to pay premises rent ((exceeding one)) exceeding two thousand dollars per month, including all terms, shall submit a pro forma plan of operations, including a market study. The plan shall be detailed enough to allow commission staff the ability to assess the profitability of the planned ((game)) gambling activity and potential for compliance with WAC 230-20-064 and 230-30-052(2). The plan shall include at least the following information, if applicable:~~

~~((a)) (1) Research procedures and planning assumptions used;~~

~~((b)) (2) Planned number of customers or attendance;~~

~~((c)) (3) Days and hours of operation;~~

~~(4) If planned activities include bingo, the following must be provided:~~

~~(a) Anticipated market area and map of competing organizations that operate similar gambling activities, along with their days of operation;~~

~~(b) Number of bingo sessions;~~

~~((d)) (c) Bingo card prices and estimated sales per player;~~

~~((e)) (d) Bingo prize payouts and game schedules;~~

~~((f)) (5) Estimated gross gambling receipts from each activity;~~

~~(6) Estimated expenses and net income;~~

~~((g) Other) (7) Details of income generating activities planned in conjunction with the ((game or premises, including the estimated)) gambling activity, such as snack bar operations or other retail sales and the anticipated net income from ((these)) such activities; and~~

~~((h)) (8) Other information requested by commission staff.~~

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

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

AMENDATORY SECTION (Amending Order 190, filed 4/18/89)

WAC 230-04-064 Certification procedure—All licenses—Formal commission approval. The Commission shall review and make a determination regarding the qualification of all persons or organizations requesting to operate gambling activities authorized by RCW 9.46. The following review procedures apply to applicants for a license:

(1) Charitable and nonprofit organizations - To ensure that only bona fide charitable or nonprofit organizations are granted the privilege of raising funds from authorized gambling activities, the commission shall annually ((certify)) review the qualifications of each organization requesting a license to conduct such activities. As a part of this process, each organization shall ((affirmatively)) clearly demonstrate that progress has been made in meeting its purpose(s) by submitting required information and answering such inquiries as deemed necessary by ((the)) commission staff. The certification process shall be completed as follows:

(a) All organizations requesting ((certification for a license)) to be certified to conduct ((bingo)) any gambling activities in Group I, ((or to conduct any other gambling activity)) II, or III shall be reviewed by ((the)) commission staff and forwarded to the commission for review and approval((-)) at a public meeting: Provided, That for any organization requesting to be certified to conduct gambling activities in Group III, the director may direct the staff to prepare a summary of qualifications, as required by subsection (1)(b) of this section, and provide such to the commission for review;

(b) Any organization requesting ((certification or an upgrade for a license)) to be certified to conduct ((bingo)) gambling activities in Group ((H)) IV or V shall be reviewed by ((the)) commission staff and a ((qualification)) summary of the organization's qualifications shall be prepared and provided to the commission for review and ((certification. The commission may require additional information, or if warranted, call for a special review pursuant to WAC 230-12-060. In the event additional information or a special review is required, a temporary or conditional license shall be issued pending completion of the review process)) approval;

(c) In addition, any organization requesting ((certification)) approval or an upgrade ((for a license)) to conduct ((bingo)) gambling activities in Group ((H)) (V) shall ((complete a)) be scheduled for formal review as a condition of ((initial certification)) licensure and ((annually)) periodically thereafter((- Provided, That an organization shall be exempted from this requirement if a formal review has been completed within the last two years. If exempted, the procedures in subparagraph (b) above shall apply)) as determined by the director or the commission. The formal review shall be at a scheduled open meeting of the commission and, when possible, held in the general area which encompasses the organization's service area. The review will cover the organization's most recent annual ((certification and)) financial report as required by WAC 230-08-122((- Provided,)). If an organization desires to submit additional information, it must be submitted ((that information)) at least twenty days prior to the date of its scheduled review. The organization must be represented by at least ((a

majority)) three members of its board of directors, its chief executive officer, and the primary ~~((bingo))~~ gambling manager. ~~((Provided, the majority requirement may be waived for good cause shown. Good cause includes economic hardship due to geographic proximity, or other factors outside a board member's control that would limit the ability to attend.))~~ The organization may solicit testimony from clients, local social and welfare providing agencies, ~~((other))~~ public agencies, and other charitable or nonprofit organizations. The commission may solicit information from the public or any other interested parties and shall notify local law enforcement agencies of the time and location of the review. The formal review will include a ~~((thirty-minute))~~ brief session for the organization to ~~((brief))~~ inform the commission on the progress made during its previous fiscal year in achieving its purposes, including the extent to which ~~((bingo))~~ gambling income was used for charitable as opposed to nonprofit services and planned uses for any ~~((bingo))~~ gambling income remaining from the previous fiscal year.

(d) At the conclusion of the ~~((formal))~~ review of qualifications for a charitable or nonprofit organization, the commission will ~~((either formally certify))~~ approve the organization ~~((as qualified to be licensed, or))~~ requested or:

(i) Require the organization to submit additional information ~~((for further review. If warranted, the commission may));~~

(ii) Return the application to the staff for further investigation;

(iii) Call for a special review ~~((If the commission requires additional information, or calls for a special review, a temporary or conditional license will be issued pending completion of the review process.));~~ or

(iv) Grant a temporary or conditional license.

(2) Commercial, individual, and all other ~~((licensees))~~ applicants - After the staff has completed its review of ~~((a new))~~ an application ~~((or a request for a recertification)), a recommendation shall be made to the commission. The commission shall ~~((certify))~~ review each application at a public meeting ~~((that)).~~ Each applicant ~~((is))~~ found to be qualified ~~((to be licensed))~~ will be issued the license requested. If the commission does not approve the application, it shall be returned to commission staff for further investigation.~~

(3) If an organization is currently licensed and the commission does not approve the application, the application shall be returned to commission staff for further investigation. A temporary or conditional license will be issued pending completion of the review process.

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 278 [WSR 95-19-069], filed 9/18/95)

WAC 230-08-095 Minimum standards for monthly and annual accounting records—Charitable or nonprofit organizations. Each charitable or nonprofit organization licensed to conduct bingo at Class D or above or authorized to receive more than five hundred thousand dollars gross

gambling receipts from combined gambling activities during any calendar year shall maintain accounting records necessary to document all receipts and disbursements of the licensee, including but not limited to those related to gambling activities.

(1) This accounting system shall be double entry and conform to generally accepted accounting principles (GAAP), except as modified by other commission rules and instructions for activity reports.

(2) The accrual method of accounting shall be mandatory and all income shall be recorded when earned and all expenses recorded when incurred: *Provided*, That the cash, modified cash, or tax basis accounting methods may be allowed if such method accurately represents the licensee's financial position and results of operations and the licensee does not have substantial liabilities or expenses not requiring a current outlay of cash, such as depreciation or amortization expenses.

(3) Organizations shall adopt a capitalization policy that is based on materiality and expected life of operating assets. Licensees shall use the following guidelines for determining a minimum level for capitalizing assets:

(a) Assets exceeding two thousand dollars and having a useful life that exceeds one year shall be capitalized and depreciated or amortized over the useful life of the asset;

(b) Preoperating start-up costs related to bingo games that exceed six thousand dollars shall be capitalized and amortized over sixty months, beginning with the first month that bingo games are conducted; and

(c) Leasehold improvements related to gambling activities, and activities conducted in conjunction with gambling activities, which exceed six thousand dollars shall be amortized over a period that does not exceed the life of the lease: *Provided*, That the amortization period may be extended to include any lease option periods if the organization's management states a reasonable expectation that the option will be exercised. All unamortized leasehold improvements shall be charged as an expense of the gambling activities in the year that the lease expires.

(4) The minimum accounting records required shall include:

(a) A cash disbursements journal and/or check register;

(b) A cash receipts and/or sales journal;

(c) A listing of all assets for which the organization paid or, if donated, valued at more than two hundred fifty dollars. If donated to the organization, the fair market value at the time of donation will be used as the determining value. Items shall be added to the listing no later than thirty days after receipt and removed only when the organization no longer has legal ownership. Regardless of whether an item has become obsolete or completely depreciated, it shall be removed only after appropriate management review has been completed and documented. A depreciation schedule shall suffice for this requirement for all capitalized items. Items converted from gambling merchandise prize inventory, required by WAC ~~((230-08-110))~~ 230-08-010, to be used by the organization shall be added to this listing when converted. This listing shall include at least the following:

(i) A description of the item;

(ii) The date purchased, acquired by donation, or converted from the gambling prize pool;

(iii) The cost at the time of purchase or, if donated, the fair market value at the time received; and

(iv) The date and method of disposition of the item.

(d) A listing of all liabilities;

(e) A complete general ledger system must be maintained if the licensee has substantial assets and/or liabilities or if licensed to receive more than \$300,000 in gross gambling receipts; and

(f) Bank statements, related deposit slips, and cancelled checks.

(5) All expenditures by the licensee relating to gambling activities, shall be sufficiently documented. Cancelled checks and bank statements are not sufficient documentation without further support. Additional support for expenditures shall be provided in the following manner:

(a) Invoices or other appropriate supporting documents from commercial vendors or service agencies should contain at least the following details:

(i) The name of the person or entity selling the goods or providing the service;

(ii) A complete description of goods or services purchased;

(iii) The amount of each product sold or service provided;

(iv) The price of each unit;

(v) The total dollar amount billed; and

(vi) The date of the transaction.

(b) Disbursements, in excess of twenty-five dollars, made directly to individuals, who do not furnish normal, business type, invoices or statements, shall be made by check and supported by other written documentation indicating at least the following details:

(i) The name of the person receiving the payment;

(ii) The amount;

(iii) The date; and

(iv) The purpose.

(6) All expenditures by the licensee relating to nongambling activities shall be sufficiently documented to provide an audit trail satisfactory to allow verification that the funds were used for the organization's purpose(s) and conforms to generally accepted accounting principles.

(7) Expenditures that relate to more than one function shall be allocated to the various functions, for example program service expenses, supporting service expenses, etc. Methods of allocation shall match expenses to revenue, be documented, and be available for commission staff review.

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 190, filed 4/18/89)

WAC 230-08-122 Annual ((certification)) progress and financial report—All nonprofit and charitable organizations. ((1) Every) Each charitable or nonprofit organization licensed to conduct gambling activities shall report annually the progress made toward accomplishment of

its stated purposes. This report shall be made on a standard form provided by the commission((, for its)) and explain the type and scope of activities that were conducted during the organization's last annual fiscal accounting period ((completed, the information required below: *Provided, That*)). If any applicant has provided such information on an application within the preceding twelve months, only those items ((requiring update)) that have changed must be reported. This report shall include at least the following information:

(1) A brief history of the organization, including its purpose(s): *Provided, That* only changes in the purposes and organizational structure need to be reported after the initial application((:));

(2) A written statement setting out the progress made in meeting its organizational purpose(s) during the period and its goals for the future;

(3) Number of membership meetings conducted;

(4) Number of active members, as defined by WAC 230-02-183;

(5) Number of voting members;

(6) The nature, type, or kind of programs ((services)) provided to members or the public;

(7) The scope of ((their)) the organization's programs ((services)), including:

(a) Number of persons served ((by their charitable or nonprofit programs));

(b) The ((extent of their service)) primary geographical service area; and

(c) Number of volunteer workers and estimation of hours worked((:));

(8) A list of contributions, scholarships, grants, or sponsorships made ((that includes)) during the period. The list must include the following:

(a) The name of each organization ((and)) or individual receiving a contribution. In the alternative, if a contribution was made to an individual for charitable purposes, the term "individual contribution" may be used instead of the individual's name((, *Provided,*)). If individual names are omitted, the organization ((maintains)) must maintain necessary records to verify and identify the recipient for each individual contribution ((listed));

(b) The amount(s);

(c) Date(s) made; and

(d) Whether ((the contribution was)) funds awarded were from gambling income or other funds.

(9) Gross income from all non((-)gambling ((sources)) activities, including the source;

(10) Total ((disbursements to provide)) expenses for both charitable and nonprofit services((, and total disbursements));

((k)) (11) The percentage or extent to which ((bingo)) net gambling income was used for charitable as distinguished from nonprofit purposes;

((l) ~~Income~~) (12) Revenue and expenses for any nongambling sales ((activity)) activities must be presented separately when ((it is)) conducted primarily in conjunction with gambling activities((, *Provided, That if the gambling activity is not conducted in a rented premise and/or if employees are not used in the gambling activity, then separation is not required*));

((m)) (13) Details of any loans, contracts, or other business transactions with related parties that accumulatively

exceed ~~(\$1,000)~~ one thousand dollars during the period. "Related parties" is defined as officers, board members, ~~((or))~~ key employees, or members of the organization, including spouses, parents, children, and brothers or sisters of each; ~~(and)~~

~~((a))~~ (14) The names, duties performed, total hours worked, and total compensation paid for the following employees:

(a) All employees paid more than ~~(\$30,000)~~ forty thousand dollars annually;

(b) Part-time employees paid more than ~~(\$15)~~ twenty dollars per hour; and

(c) All officers receiving compensation for services rendered.

(15) In addition to information required in paragraph (1), any organization licensed to conduct gambling activities in Group ~~(II and)~~ III ~~(bingo licensees)~~, IV, or V must submit ~~(the following)~~ complete financial statements prepared in accordance with generally accepted accounting principles and all required disclosures or footnotes. This information must be submitted no later than ~~((120))~~ one hundred twenty days following the end of ~~((its))~~ the organization's fiscal year ~~(accounting period. The information must be submitted in the form of complete financial statements, including all required footnotes and a "Statement of Cash Flow," and shall be prepared in accordance with generally accepted accounting principles).~~ The financial statements must include:

(a) A ~~(complete balance sheet)~~ Statement of Financial Position;

(b) ~~(Income)~~ A Statement of Activities. This statement may be presented in a consolidated form if details of each component are provided as supplemental information. Revenue and expenses for each ~~(gambling)~~ activity~~(s)~~ must be presented separately~~(s)~~

~~(c) Income from all other sources, separately;~~

~~(d) Direct expenses for providing charitable services and direct expenses for providing nonprofit services; and~~

~~(e) Capital expenditures made during the period.~~

~~(f))~~ as follows:

(i) Each gambling activity;

(ii) Retail sales conducted in conjunction with gambling activities;

(c) A Statement of Cash Flows;

(d) A Statement of Functional Expenses;

(e) In addition to all disclosures required by generally accepted accounting principles, the financial statements must disclose the following:

(i) Loans to or from officers, board members, and employees ~~(must be presented separately in the Balance Sheet/Statement of Financial Position or disclosed in the footnotes)~~: *Provided*, That employee salary advances of ~~(\$200.00)~~ five hundred dollars or less will not be considered as loans. Details of all terms, including interest rates and payment schedules, must be disclosed;

~~((g) Income and expenses for each function or activity must be separately presented in the income statement/ statement of operations.)~~

(ii) All civil penalties, fines, bribes, or embezzlements; and

(iii) An explanation of any adjustments made to prior period capital accounts or net asset balances.

~~(f) An explanation of material differences between amounts reported ~~((or))~~ on gambling activity reports and the financial statements ~~(must be reconciled and explained. Provided, That a consolidated income statement may be presented, if details of all activities are provided as supplemental information;~~~~

~~(h) All civil penalties, fines, bribes, or embezzlement discovered by the organization are considered material and must be disclosed; and~~

~~(i) An explanation of any adjustments made to prior period capital accounts or fund balances must be disclosed in the footnotes or provided as supplemental information).~~

(16) The commission may require additional information to ensure completeness of the information reported ~~((or subsection (1) or (2) above,))~~ including selected information covering the period from the end of the fiscal year reported and the license renewal date;

(17) The commission may grant an organization additional time to submit the information required ~~((by subsection (1) or (2) above upon demonstration of undue hardship and))~~, if a written request is received prior to the due date. Any request for additional time shall be signed by the president ~~(and)~~, include a statement setting out the hardship necessitating the delay, and the expected date the required report(s) will be submitted.

(18) The commission may request any organization licensed to conduct gambling activities in Group II to submit financial statements and other information required by this rule in order to evaluate the organization's qualification.

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

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

AMENDATORY SECTION (Amending Order 249 [WSR 94-01-035], filed 12/6/93)

WAC 230-08-255 Bona fide charitable or nonprofit organizations—Significant progress~~(—Group II and Group III licensees)~~. Any charitable or nonprofit organization requesting ~~((certification))~~ to be certified to conduct gambling activities ~~(in Group II or Group III, as defined by WAC 230-12-076,)~~ must demonstrate it has made significant progress toward meeting its stated purpose(s) during the period under review. ~~((Compliance with the following requirements shall be prima facie evidence that an organization has made significant progress.))~~ "Significant progress" means an organization has complied with requirements set forth in its bylaws and articles of incorporation; has actively engaged in providing services to the public or its members during the entire period under consideration; and the services provided directly relate to the stated purposes of the organization. Such activities will be deemed significant when an organization utilizes a substantial portion of the resources it has available, including net gambling income, for providing services. *Provided that*: Any organization requesting to be certified to operate gambling activities in Group III, IV, or V, as defined in WAC 230-12-076, shall demonstrate it has

made "significant progress" by meeting the following additional requirements:

(1) ~~((It held))~~ Elections to select officers were held at least once in the previous two years;

(2) ~~((It held))~~ A general membership meeting to conduct the business of the organization was held at least once in the previous two years;

(3) ~~((It expended))~~ At least sixty percent of the net gambling ((proceeds)) income earned in ((its)) the organization's most recently completed fiscal accounting year ((by either directly providing program services or by purchasing capital assets necessary to provide future program services-)) was utilized in the same period as functional expenses to provide services to members or the public. The following procedures apply for purposes of determining compliance with this ((subsection, the following provisions and procedures apply:

~~(a) An organization will be deemed to have complied with the requirements of this subsection if:~~

~~(i) It expends an amount equal to sixty percent or more of gambling proceeds earned during the current fiscal accounting period providing program services; or~~

~~((ii) It)) subsection:~~

~~(a) Fees paid by members or the public to receive services or to participate in specific activities shall be classified as a reduction to expenses for providing such services and as income to the extent fees paid exceed the cost of providing such services;~~

~~(b) The amount of net gambling income used to provide services in the year under review shall be determined by the following procedure:~~

~~(i) Compute the amount of net gambling income that must be used for services by multiplying net gambling income for the period by sixty percent or six tenths (0.6);~~

~~(ii) Compute the ratio of net gambling income when compared to total net revenue from all sources for the period by dividing net gambling income by total net revenue from all sources;~~

~~(iii) Compute the amount of net gambling income that was used for services by multiplying total expenses of providing services for the period by the result of the computation in subsection (ii) of this section; and~~

~~(iv) The results of the computation in subsection (iii) must be equal to or greater than the results of the computation in subsection (i).~~

~~(c) An organization may be exempted from this subsection for a limited time if it:~~

~~(i) Has a formal plan to ((spend)) utilize an amount that is equal to or greater than sixty percent of the net gambling ((proceeds)) income earned in the current period to provide ((program)) services in the ((immediately subsequent)) next fiscal accounting period and the plan is submitted to the commission as a part of its ((certification application.~~

~~(b) An organization may be exempted from this provision for up to three years if:~~

~~(i) It)) annual progress and financial report required by WAC 230-08-122. Such services shall be in addition to those required for the next period; or~~

~~(ii) Is reserving funds to start or expand specific programs((;)). If funds are being reserved to start or expand specific programs, the organization must~~

~~((ii) It)) expend((s)) at least twenty-five percent of net gambling ((proceeds)) income for providing ((program)) services in the current fiscal accounting period((;)).~~

~~(iii) It has a formal plan regarding the funds reserved; and~~

~~(iv) The director has approved the plan.~~

~~(e) The amount of gambling proceeds expended to provide program services shall be computed using the following guidelines:~~

~~(i) All reductions of the principal and interest expense related to loans used to purchase program service assets shall be treated as program service expenses during the period they are paid;~~

~~(ii) Noncash expenses, such as depreciation or amortization shall be subtracted from program service expenses;~~

~~(iii) For computation of ratios for compliance with this section, fees paid by members or the public to receive program services or to participate in specific activities shall be classified as a reduction to both program service expenses and income to the organization; and~~

~~(iv) The amount of gambling proceeds used to provide program services shall be computed by multiplying adjusted program services expenses by a ratio determined by dividing gambling proceeds for the period by adjusted total income from all sources for the same period.~~

~~(4) It does not expend more than thirty-five percent of ((the total amount spent providing program services)) functional expenses for ((administrative or)) supporting service((s or)) expenses. If more than fifty percent of ((program services)) functional expenses are provided through indirect methods such as contributions, scholarships, and/or sponsorships, services, ((as defined in WAC 230-02-278(2)),) then not more than twenty percent of ((the total amount spent for program services)) functional expenses shall be spent for supporting services. ~~((- Provided, That unique, nonrepeating expenses may be factored out of the computation of administrative or supporting services expenditures for compliance with this section: - Provided further, That expenditures that relate to more than one function shall be allocated to the various functions. Methods of allocation shall be documented and available for commission staff review. The director may grant an exemption to exceed the above limitation when an organization can demonstrate special circumstances. For purposes of this section, "administrative" or "supporting services" expenses shall include management and general overhead expenses which are essential to providing program services but which are not directly attributable to program services. At least the following expenditures shall be considered administrative or supporting services expenses:~~~~

~~(a) Wages and benefits for general operation of the organization such as executive directors and other management or support personnel (secretarial, reception, bookkeeping, etc.);~~

~~(b) Expenses related to providing an administrative office, including rent, depreciation, interest, utilities, taxes, insurance, and supplies;~~

~~(c) General management functions of the organization such as planning (budget etc.), recruiting and training staff, and procuring and distributing materials;~~

~~(d) Scheduling and conducting board, committee, and membership meetings;~~

~~(e) Publicizing the organization: *Provided*, That solicitation of new members or volunteers, or announcements and publications intended to educate the public regarding services provided by the organization, shall be deemed to be program service expenses;~~

~~(f) General expenses related to soliciting contributions and other nongambling fund raising activities. Direct expenses related to a specific fund raising activity shall be deducted from the receipts of the activity and will be treated as supporting services expenses only to the extent total expenses exceed receipts for the activity; and~~

~~(g) Outside supporting services such as accounting, audit, legal, etc.)~~

(5) Compliance with the requirements of this section shall be prima facie evidence that an organization has made significant progress towards accomplishing its stated purposes.

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

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

Reviser's note: The 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.

NEW SECTION

WAC 230-12-076 Regulation of charitable and nonprofit organizations—Assignment to regulatory groups. Each charitable or nonprofit organization shall comply with licensing and operating requirements applicable to the scope of activity it has been authorized to conduct. Each organization will be assigned to a regulatory group that is based upon the authorized gambling gross receipts of all combined licenses issued to the organization. The following regulatory groups are established:

(1) Group I - Any organization requesting to be certified to conduct gambling activities with combined annual gross receipts up to three hundred thousand dollars;

(2) Group II - Any organization requesting to be certified to conduct gambling activities with combined annual gross receipts up to one million dollars;

(3) Group III - Any organization requesting to be certified to conduct gambling activities with combined annual gross receipts up to three million dollars; and

(4) Group IV - Any organization requesting to be certified to conduct gambling activities with combined annual gross receipts up to five million dollars;

(5) Group V - Any organization requesting to be certified to conduct gambling activities with combined annual gross receipts that exceed five million dollars.

AMENDATORY SECTION (Amending Order 250 [262], filed 3/16/95 [12/5/94])

WAC 230-20-064 Maximum receipts, prizes, and expenses for bingo games—Net income required. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only.

Organizations licensed to conduct bingo games must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the organization's license year as set out in WAC (~~(230-04-201)~~) 230-04-202, Table 1, or as restricted by the commission under subsection (6) of this section.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts, as percentages of gross receipts, shall not exceed the percentages listed in Table 1((-)) by class of license, or as restricted by the commission under subsection (6) of this section.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, combined net income from bingo games, punchboards/pull tabs, and food, drink or other retail sales activities conducted in conjunction with bingo games, as a percentage of bingo games gross receipts shall not be less than the percentage listed in Table 1((-)) by class of license for any annual license period, or as restricted by the commission under subsection (6) of this section: *Provided*, That local gambling taxes paid or accrued will be allowed as a credit when computing net income for bingo and punchboards and pull tabs.

(4) The director may allow a licensee to temporarily exceed the limitations set out in subsection (2) or (3) of this section, or Table 1((-)) of this section when unusual and/or uncontrollable conditions affect the licensee's ability to comply. Any licensee seeking relief from these requirements must petition the commission staff in writing. This petition must set forth the specific circumstances for which such relief is sought and include objective evidence regarding the scope of the impact on the bingo operation. The director may authorize exceptions under the following conditions:

(a) When a new class D or above bingo licensee or any game not under the jurisdiction of the commission and which operates two or more days per week begins bingo activities within the market area of an operating game. For purposes of this section, "market area" is defined as:

(i) Primary market area - within the area encompassed by a measurement that starts at the premises of an operating class D or above bingo game and extends to a radius that is located five miles from such premises;

(ii) Secondary market area - within the area encompassed by a measurement that starts at a radius that is located five miles from the premises of an operating class D or above bingo game and extends to a radius that is located ten miles from the premises;

(iii) Rural market area - within the area starting at the premises of an operating class D or above bingo game and extending to the twenty-five mile radius from such premises when such premises is located in any county that the total population is less than one hundred thousand.

(b) When a class D or above game is forced to move its current operations outside their primary market area due to circumstances beyond the control of the organization. Examples of uncontrollable circumstances are:

(i) Premises destroyed or condemned;

(ii) Lease expiration without an option to renew;

(iii) Increases to rent that would put the licensee in jeopardy of being in violation of net income requirements;

(iv) Permanent interruption of customer flow, such as: Closure of arterial exit ramps; loss of customer parking; cancellation of public transportation; etc.; or

(v) Other circumstances as approved by the director.

(c) When an organization not previously licensed to conduct bingo at any class begins operations at the class D or above level;

(d) When a licensee is required to upgrade their license class in the last quarter of their annual license period; or

(e) When an organization incurs a temporary interruption of customer flow. A "temporary interruption of customer flow" is defined as an interruption that the licensee can not prevent but which will be corrected within a reasonable time period, such as street repairs, damage to premises, inclement weather, etc.

(5) Relief granted under subsection (4) of this section shall be limited to adjustment of the requirements in Table 1((-)) as follows:

(a) Relief for subsection (4)(a) of this section - new game operating within the primary market area. When a new class D or above or any game not under the jurisdiction of the commission and which operates two or more days per week begins operations within the primary market area of an operating class D or above bingo game and:

(i) The new game operates two or more occasions per week that are common to the currently operating game, the annual and calendar quarter prize payout limits shall be increased by two percentage points for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by two percentage points for the first twelve months of operation of the new game; or

(ii) The new game operates one occasion or less per week that is common to the currently operating game, the annual and calendar quarter prize payouts limits shall be increased by one percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one percentage point for the first twelve months of operation of the new game.

(b) Relief for subsection (4)(a) of this section - new game operating within the secondary or rural market area. When a new class D or above or any game not under the jurisdiction of the commission and which operates two or more days per week begins operations within the secondary or rural market area of an operating class D or above bingo game and:

(i) The new game operates on two or more occasions common to the current game, then the annual and calendar quarter prize payout limits shall be increased by one percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one percentage point for the first twelve months of operation of the new game; or

(ii) The new game operates on one or less occasion common to the current game, then the annual and calendar quarter prize payout limits shall be increased by one-half percentage point for the first twelve months of operation, and the annual minimum net income requirements shall be decreased by one-half percentage point for the first twelve months of operation of the new game.

(c) Relief for subsection (4)(b) of this section - organizations forced to move their game outside their primary market area shall be authorized an increase in the quarterly

prize payout limit of one percentage point, and a decrease in the annual net income limit by one percentage point for the first twelve months of operation in the new location;

(d) Relief for subsection (4)(c) of this section - organizations not previously licensed to conduct bingo at any level shall be authorized a two percentage point reduction in the net income requirement and a two percentage point increase in the maximum prize payout requirement of Table 1((-)) for the first annual license period;

(e) Relief for subsection (4)(d) of this section - organizations required to upgrade their license in the last quarter of their annual license period shall be measured for the entire annual license period based on the lower license class limits; and

(f) Relief for subsection (4)(e) of this section - organizations that have temporary interruption of customer flow shall be measured for the affected period, plus one month, based on performance with the interruption period factored out.

(6) Enforcement actions. The commission may impose the following corrective requirements and/or penalties on any licensee who fails to meet requirements of this section:

(a) Any licensee that exceeds the maximum calendar quarter prize payout limit or reports net income that is more than two percentage points lower than the annual minimum net income requirements during any quarter and whose net income falls below the annual minimum requirements when measured ((license year to date)) over the immediately preceding four calendar quarters shall:

(i) Take immediate steps to decrease prizes and/or expenses;

(ii) Report the violation to commission staff as soon as discovered, but in no case later than thirty days following the end of the quarter. This notification shall be separate and additional to the quarterly activity report;

(iii) Provide a written plan of actions to gain compliance to the commission no later than forty-five days following the end of the quarter. This plan shall be evaluated by commission staff and input provided to the licensee no later than thirty days after receipt;

(iv) Provide the commission additional reports determined by the staff as necessary to monitor progress toward compliance; and

(v) Upon request, a committee of the licensee's management, including the chief executive officer, executive director, or equivalent manager responsible for supervising the primary bingo manager, and the primary bingo manager shall meet with commission staff to discuss the action plan.

(b) Any licensee who fails to achieve the minimum net income requirement for their annual measurement period shall be limited in license class for the next annual license period to the license class equal to the level of net income actually achieved, not to exceed a license class that authorizes at least one-half of the maximum gross gambling receipts of the current license class. For purposes of this section, the annual measurement period used shall be the licensee's annual fiscal accounting year: *Provided*, That the reduction for the first violation shall be a maximum of two license classes. A licensee limited under this section will not be granted an increase in their authorized license class until it has demonstrated the ability to maintain net income requirements at or above the minimum level for the class of license

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sought. Achieving net income requirements at or above the minimum level for at least two quarters, one of which may be the last quarter in the previous license year, shall be prima facie evidence of such ability: *Provided Further*, That a licensee may petition the commissioners for a license to operate at a higher level. Any such petition would be heard at a regular public meeting of the commission under the requirements of WAC 230-50-850. Petitions for relief under this section must include: The impact the reduction would have on their programs; what portion of their programs are charitable as compared to nonprofit; and income available from other sources to fund programs. The commission may take testimony from other parties that may be affected by approval of the petition. Any approval granted under this section may be made contingent upon future compliance or other issues as determined by the commission.

(c) The commission deems the responsibility for maintaining prize payouts at or below the maximum annual limit to be that of the primary ((bingo)) gambling manager. The organization's board of directors may relieve the primary ((bingo)) gambling manager of this responsibility by informing the commission in writing. Unless relieved by the board of directors, the primary manager shall be responsible for all penalties imposed under this section. If the board relieves the manager of responsibility for prizes, the commission shall consider the organization fully responsible for compliance with this section. In this case, prize payouts will be considered when reviewing violations of this section. The primary manager shall not be compensated in any manner during periods of license suspension imposed under this section. Any primary ((bingo)) gambling manager who fails to achieve the annual limit for the class of license issued to the organization as set out in Table 1((-)) below, shall:

(i) First violation - receive a written warning and be required to demonstrate in-depth knowledge of factors affecting prize payouts including, but not limited to, bingo game prize probabilities, expected payouts for each type of

game, factors included in the computation, and methods for analysis of games. The scope and depth of their bingo management knowledge shall be demonstrated by requiring the manager to prepare and submit their current game schedules, records used to analyze games, and the expected payout for each game. The manager will be required to meet with commission staff to discuss the evaluation and other aspects of their game;

(ii) Second violation - three day suspension that includes at least one operating day;

(iii) Third violation - ten day suspension that includes at least four operating days;

(iv) Fourth violation - thirty-day suspension;

(v) Fifth violation - revocation of manager's license for at least one year.

(7) In order to study the possible impacts of factors beyond bingo licensees' control which may affect bingo licensees' ability to meet license class requirements and requirements of this section, the commission imposes an immediate moratorium on the mandatory downgrade requirement of subsection (6). Any bingo licensee who fulfills the following requirements shall be allowed to operate at its current license class:

(a) The licensee informs the commission in writing that it wishes to participate in the study, the steps the licensee is taking to meet its license class requirements, and that it meets the requirements of this subsection;

(b) the bingo licensee is within 2.5% of the net income requirements for the licensee's license class; and

(c) the licensee freezes controllable expenses for the duration of the study.

(8) The moratorium upon issuing mandatory downgrades as set forth in subsection (7) ends when the commission completes the study or on January 1, 1997, whichever occurs first. The moratorium extends only to the issuing of downgrades while the moratorium is in effect; it does not affect any other licensee requirements.

Table 1

((Group))	License Class	Annual		Annual Prize Payout Limits	Calendar Quarter Prize Payout Limits	Annual Minimum Net Income Requirements - Bingo *	Annual Minimum Net Income Requirements - Bingo & Punchboards/Pull Tabs **
		Gross Receipts	Prize Payout				
((#))	A	Up to \$	15,000	No Limits	No Limits	No Limits ***	No Limits ***
	B	\$ 15,001-	50,000	No Limits	No Limits	No Limits ***	No Limits ***
	C	50,001-	100,000	No Limits	No Limits	No Limits ***	No Limits ***
	D	100,001-	300,000	Max of 85.0%	Max of 86.5%	At least 1.0%	At least 2.0%
	E	300,001-	500,000	Max of 84.0%	Max of 85.0%	At least 2.0%	At least 3.0%
((H))	F	500,001-	1,000,000	Max of 83.0%	Max of 84.0%	At least 3.5%	At least 4.5%
	G	1,000,001-	1,500,000	Max of 80.0%	Max of 81.0%	At least 5.0%	At least 7.0%
	H	1,500,001-	2,000,000	Max of 78.0%	Max of 79.0%	At least 7.0%	At least 9.0%
	I	2,000,001-	2,500,000	Max of 76.0%	Max of 77.0%	At least 9.0%	At least 11.0%
((H))	J	2,500,001-	3,000,000	Max of 74.0%	Max of 75.0%	At least 11.0%	At least 13.0%
	K	3,000,001-	3,500,000	Max of 72.0%	Max of 73.0%	At least 12.5%	At least 15.0%
	L	3,500,001-	4,000,000	Max of 70.0%	Max of 71.0%	At least 13.5%	At least 16.0%
	M	Over	4,000,000	Max of 70.0%	Max of 71.0%	At least 14.5%	At least 17.0%

* = Net income measured for organizations that operate bingo only and do not hold a license for punchboards/pull tabs. It is the combined net income from bingo ((games)) activities and ((sales)) the sale of food, drink, or other retail items((-if applicable)) as a percentage of bingo gross receipts. Local

gambling taxes are not considered an expense for computing net income.

** = Combined net income from punchboards/pull tabs, bingo ((games)), and ((sales)) sale of food, drink, or other retail items, if applicable, as a percent of bingo gross receipts. Local

gambling taxes are not considered an expense for computing net income.

*** = Combined net income must be equal to or greater than zero ((+)) if wages or rent is paid to operate the activity. Local gambling taxes are not considered an expense for computing net income.

Note: Net income requirements for charitable or nonprofit organizations that operate pull tabs, but do not operate bingo, are detailed in WAC 230-30-052.

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

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

Reviser's note: The 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 96-04-008
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed January 25, 1996, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-096.

Title of Rule: WAC 388-49-410 Resources—Exempt.

Purpose: To include a new food stamp program resource exclusion and amend the rule to include and delete certain policy.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Adds a new resource exclusion, removes Puyallup tribal settlement exclusion. Adds earned income tax credit exclusion, deletes exclusion of vacation rental homes.

Reasons Supporting Proposal: Public law and federal rule.

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 law, Administrative Order 95-62, Public Law 103-66, Public Law 103-436, and 7 CFR 273.8 (e)(4).

Explanation of Rule, its Purpose, and Anticipated Effects: The changes to WAC 388-49-410 serve to incorporate a new exclusion of resources, removes Puyallup tribal settlement funds as a resource exclusion because the funds are already excluded in another part of WAC 388-49-410. Add the earned income tax credit as an exclusion where it has resided in procedures as policy, and finally we deleted specific reference to excluding vacation rental homes

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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. The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on March 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 27, 1996, TDD (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 March 5, 1996.

Date of Intended Adoption: March 13, 1996.

January 25, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3836, filed 2/22/95, effective 4/1/95)

WAC 388-49-410 Resources—Exempt. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if the household:

(i) Is making a good faith effort to sell; or

(ii) Intends to return to the home and the house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (g);

(j) Real property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) ~~((Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;~~

(+)) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer or fisherman shall retain its exclusion for

one year from the date the household member terminates self-employment from farming or fishing;

~~((m))~~ (l) Resources held separately by a nonhousehold member;

~~((n))~~ (m) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

~~((o))~~ (n) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

~~((p))~~ (o) Cash value of resources not accessible to the household;

~~((q))~~ (p) Funds in a trust and the income produced by that trust, to the extent they are not available;

~~((r))~~ (q) Resources excluded by express provision of federal law from consideration in the food stamp program;

~~((s))~~ (r) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

~~((t))~~ (s) Value of the property sold under an installment contract;

~~((u))~~ (t) The value of property held for security if the purchase price is consistent with fair market value;

~~((v))~~ (u) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

~~((w))~~ (v) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

~~((x))~~ (w) Energy assistance payments or allowances made under federal, state, or local laws;

~~((y))~~ (x) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

~~((z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:~~

~~(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;~~

~~(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and~~

~~(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member))~~

(y) Earned income tax credit for:

(i) The month of receipt and following month if the person was not a food stamp recipient when the credit payment was received; or

(ii) Twelve months if the person:

(A) Was a food stamp recipient when the credit payment was received; and

(B) Remains a food stamp recipient continuously through eleven months after receiving the first credit payment.

(2) The department shall continue to exempt a household's funds commingled in an account with nonexempt funds for up to six months from the date the funds are commingled.

(3) The department shall exempt a resource of a household member who receives a supplemental security income (SSI) or aid to families with dependent children (AFDC) grant.

(4) The department shall exempt a resource which:

(a) If sold, would net the household less than one-half of the applicable household resource limit; and

(b) Is other than stocks, bonds, negotiable financial instruments, or a vehicle.

WSR 96-04-009

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 26, 1996, 8:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-026.

Title of Rule: WAC 308-13-005 Definitions, 308-13-015 Powers and duties of the board, 308-13-024 Application for examination, 308-13-050 Registration by reciprocity, and 308-13-110 Landscape architect listings.

Purpose: WAC 308-13-005, to update the definitions and delete the plant identification examination that is no longer required in the current examination for registration.

WAC 308-13-015, to clarify and update added responsibilities of the board.

WAC 308-13-024, to simplify the application procedure and clarify the process of applying for registration following successful completion of the examination.

WAC 308-13-050, to expand the eligibility for registration and update the application requirements.

WAC 308-13-110, to repeal a rule that has no statutory authority.

Statutory Authority for Adoption: WAC 308-13-005 is RCW 18.96.020; WAC 308-13-015, 308-13-024 and 308-13-050 is RCW 18.96.060; and WAC 308-13-110 is none.

Statute Being Implemented: WAC 308-13-005 is RCW 18.96.030, 18.96.060; WAC 308-13-015 is RCW 18.96.060, 18.96.070, 18.96.100; WAC 308-13-024 is RCW 18.96.080; WAC 308-13-050 is RCW 18.96.100; and WAC 308-13-110 is none.

Summary: WAC 308-13-005, this amendment adds definitions and repeals the plant identification reference because the plant identification examination is no longer offered, or required.

WAC 308-13-015, this amendment specifies the authority and responsibility of the board.

WAC 308-13-024, this amendment clarifies the requirements and administrative procedures for application for the registration examination, updates the language of the rule, and adds the requirement to write a summary of the landscape architect law and rules.

WAC 308-13-050, this amendment would remove impediments to reciprocity agreements with other states and

would clarify the administrative procedures involved with the application process.

WAC 308-13-110, this rule was adopted without statutory authority and cannot be enforced.

Reasons Supporting Proposal: WAC 308-13-015, the board adopts national standards for academic credit and uses the national standard examination.

WAC 308-13-050, this amendment would list the minimum documentation required in Washington, based upon recognition of professional registration in other states.

WAC 308-13-110, there is no statutory authority for the rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 405 Black Lake Boulevard, Olympia, (360) 753-1153, FAX (360) 664-2550, TDD (360) 753-1966.

Name of Proponent: Board of Registration for Landscape Architects, Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-13-005, this amendment adds definitions for words and acronyms used in chapter 18.96 RCW and chapter 308-13 WAC. It also removes any reference to the plant identification examination, which is not longer required. This rule reduces the number of telephone calls and letters requesting clarification of the chapter, and assists applicants in their registration.

WAC 308-13-015, this amendment updates and clarifies the duties and responsibilities of the board. The board does not approve colleges, it accepts programs recognized by a landscape architect accrediting board. The board administers examinations and provides information. This amendment would reduce the number of telephone calls and letters requesting clarification of this chapter.

WAC 308-13-024, this amendment clarifies the administrative procedures for application for the examination. It eliminates the requirement for a notarized application form, and separates the "fees" for licensure and the "charges" for the examination. Candidates who successfully complete the registration examination are required to submit a written summary of chapter 18.96 RCW and chapter 308-13 WAC.

WAC 308-13-050, this rule updates eligibility requirements for registration and simplifies the application process. It will assure applicants and the public that minimum requirements have been met before registration is issued and that standards are not arbitrary, selectively applied, or capricious.

WAC 308-13-110, repealing will eliminate a rule that has no statutory authority for adoption or enforcement.

Proposal Changes the Following Existing Rules: WAC 308-13-005, yes, it adds definitions and removes reference to plant identification examination.

WAC 308-13-015, no.

WAC 308-13-024, yes, this amendment eliminates the "notarized" application, it identifies both fees and charges as stated in WAC 308-13-150. It also requires candidates who successfully complete the registration examination to submit a written summary of chapter 18.96 RCW and chapter 308-13 WAC.

WAC 308-13-050, yes, it requires that an applicant for reciprocity be currently licensed in another state. Applicants

must submit a summary of the landscape architect law and rules. It eliminates the need for transcripts if the applicant has at least seven years of work experience. The reference form has been incorporated into the experience form, eliminating three sheets of paper in the application packet.

WAC 308-13-110, no.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC 308-13-005, the change will not affect small business. It is an administrative procedure and clarification that informs without any requirements.

WAC 308-13-015, this amendment does not apply to small business. It applies only to board members.

WAC 308-13-024, there are no increases in fees or charges and the administration procedures for application have no impact on the business operations of customers.

WAC 308-13-050, this rule affects those persons from other states planning to become registered in Washington. It ensures that these applicants meet current minimum requirements with no increase in qualifications.

WAC 308-13-110, no, there would be a positive small business impact because firms would no longer be required to include the name of the landscape architect in telephone directories, announcements, brochures, business cards, letterhead and promotional literature. This would reduce advertising and printing costs.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. WAC 308-13-005, this rule is contained within the provisions of RCW 34.05.238 (5)(b)(ii).

WAC 308-13-015, no, the rule is contained within the provision of RCW 34.05.328 (5)(b)(ii).

WAC 308-13-024, yes, this is a significant legislative rule under the provisions of RCW 34.05.328 (5)(c)(i).

WAC 308-13-050, yes, this is a significant legislative rule under the provisions of RCW 34.05.328 (5)(c)(iii).

WAC 308-13-110, yes, this rule repeal is contained within the provisions of RCW 34.05.328 (5)(c)(iii).

Hearing Location: Business and Professions Division, 405 Black Lake Boulevard, Conference Room 1, Olympia, WA 98502, on April 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sharon M. Kinder by April 10, 1996, TDD (360) 753-1966, or (360) 586-8935.

Submit Written Comments to: James D. Hanson, FAX (360) 664-2550, by March 29, 1996.

Date of Intended Adoption: April 12, 1996.

January 25, 1996

James D. Hanson

Program Administrator

AMENDATORY SECTION (Amending Order PL 511, filed 1/31/85)

WAC 308-13-005 Definitions. (1) "Registered college" as used in RCW 18.96.070 means a college or school (~~(listed under)~~) recognized by the Landscape Architectural Accreditation Board(~~(a list of schools)~~) (LAAB) as having accredited programs in landscape architecture.

(2) "Entire examination" as referred to in RCW 18.96.090 means the written and graphic examination approved by the board(~~(including the plant identification examination)~~).

(3) The word "principal" as used in this chapter means a member of a firm offering landscape architectural services to the public who is a landscape architect, a shareholder and director of landscape architecture if the practice is through a corporation, a partner if the practice is through a partnership or the owner if the practice is through a sole proprietorship.

(4) (~~"UNE"~~) "L.A.R.E." means the (~~(Uniform National)~~) Landscape Architect Registration Examination for landscape architects.

(5) "CLARB" means the National Council of Landscape Architectural Registration Boards, of which the Washington board is a member.

AMENDATORY SECTION (Amending Order PM 607, filed 7/25/86)

WAC 308-13-015 Powers and duties of the board.

The board shall:

- (1) Determine the qualifications for examination.
- (2) (~~Approve registered colleges of landscape architecture for acceptance of educational qualifications in lieu of experience per RCW 18.96.070.~~) Accept the programs recognized by the Landscape Architectural Accreditation Board, periodically published by the American Society of Landscape Architects (ASLA), as those academic programs qualifying for education experience credit as described in RCW 18.96.070.
- (3) Hold examinations of qualified persons who shall apply for registration as landscape architects. Accept the programs recognized by the Landscape Architectural Accreditation Board, periodically published by the American Society of Landscape Architects (ASLA), as those academic programs qualifying for education experience credit as described in RCW 18.96.070.
- (3) Administer the written examination when it is available in its entire content to all eligible applicants for registration under the provisions of this chapter and chapter 18.96 RCW.
- (4) Examine and act on applications for registration by reciprocity and make recommendations to the director of licensing for issuance or refusal thereof.
- (5) (~~Examine and act on applications for reinstatement of licenses which have been suspended or revoked.~~) Provide application instructions for reissuance of license to persons whose license has been suspended or revoked in accordance with RCW 18.96.140.
- (6) Provide reinstatement instructions to persons whose license is delinquent in accordance with RCW 18.96.110.
- (7) Investigate and hold hearings on complaints against registrants and advise the director of findings of evidence of violation of chapter 18.96 RCW.

AMENDATORY SECTION (Amending WSR 93-16-009, filed 7/22/93, effective 8/22/93)

WAC 308-13-024 Application for examination. (1)

The application for examination must be submitted on forms approved by the board, accompanied by academic and/or practical experience verification to document eligibility under the provisions of RCW 18.96.070. Applications for admission to an examination if scheduled, must be submitted or postmarked not later than the following dates. If the cut-off date falls on a Saturday or Sunday, the postmark deadline will be the following Monday.

<u>Examination Months</u>	<u>Cut-off Dates</u>
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June	April 1
December	October 1

(2) Examinees may retake any sections offered that have not been passed. Applications for examination or reexamination must be accompanied by the application fee for examination or reexamination and the appropriate examination fee as established by the director and published in chapter 308-13 WAC, landscape architect fees. For reexamination applicants, examination fees are listed by separate section.

(3) A completed application includes:

- (a) A (~~(notarized)~~) completed application form LA 656-3;
- (b) Three references from landscape architects having personal knowledge of the applicant's landscape architectural experience;
- (c) Transcript of academic experience showing courses taken and degree received with registrar's seal/stamp/signature. Photocopies of transcripts are not acceptable;
- (d) Verification of work experience;
- (e) (~~(Application and examination)~~) Appropriate fees and charges.
- (4) (~~(Notice of acceptance)~~) Examination admission letters(9)) will be mailed to eligible applicants approximately six weeks prior to the examination along with detailed information as to times, place, and scheduled examination sections.

(5) Application fees for examination and reexamination are administrative charges and will not be refunded. The examination fees (cost of each test) may be refunded if notice of cancellation is received by the department prior to ordering of examinations from the national testing service.

(6) Following successful completion of the registration examination, candidates will submit a summary of chapter 18.96 RCW and chapter 308-13 WAC.

AMENDATORY SECTION (Amending Order PL 511, filed 1/31/85)

WAC 308-13-050 Registration by reciprocity. (1)

Any landscape architect who is currently registered in another state or country which extends the privileges of reciprocity to landscape architecture in this state and who desires to practice landscape architecture in Washington, shall make formal application on forms provided by the board, accompanied by the initial license fee and the reciprocity application fee. Applicants shall submit a summary of chapter 18.96 RCW and chapter 308-13 WAC. The application shall show evidence satisfactory to the board of:

- (a) Having at least the equivalent experience and responsible charge of landscape architectural work as required of candidates for examination;
- (b) Having satisfactorily completed the (~~(Uniform)~~) national examination required of applicants for registration in Washington;
- (c) Applicant's proof of compliance shall consist of:
 - (i) Education: Transcript of college grades indicating degrees earned. Transcripts are not required if work experience is at least seven years.

PROPOSED

~~(ii) ((References: Three landscape architect reference letters and letters of reference from two other persons acquainted with applicant's character and professional abilities.~~

~~((iii)) Employment: Statements of previous ((landscape architect)) employers covering full-time employment for a minimum of three years when the applicant has an accredited degree in landscape architecture or seven years of experience working with landscape architects or a combination of seven years of education and experience, approved by the board.~~

~~((iv) Clients: Three signed letters from former clients. (v) Examination:)) (iii) Certification: ((by)) State of ((origin of)) registration that applicant passed the national examination, listing subjects taken and ((grades)) scores received.~~

~~(2) ((The board will require oral examination of any candidate for registration by reciprocity, except that oral examination may be waived in cases where supporting documentation or other evidence shows sufficient information for the board to reach a decision without examination.~~

~~(3)) Certification: National certification by the council of landscape architectural registration boards shall be recognized by this board as satisfactory evidence for registration by reciprocity, provided the applicant has ((taken and)) passed the ((UNE)) national examination and such certification is current and valid at the time of ((application for registration, and after the candidate's file has been received and approved)) approval by the board.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-13-110 Landscape architect listings.

WSR 96-04-018

**WITHDRAWAL OF PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE**

(By the Code Reviser's Office)

[Filed January 30, 1996, 8:00 a.m.]

WAC 284-54-170, proposed by the Insurance Commissioner's Office in WSR 95-15-082, appearing in issue 95-15 of the State Register, which was distributed on August 2, 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 96-04-033

**PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed February 2, 1996, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 94-15-012.

Title of Rule: State Board of Education election rules, chapter 392-109 WAC.

Purpose: To provide for the periodic election of State Board of Education members.

Statutory Authority for Adoption: RCW 28A.305.020.

Statute Being Implemented: RCW 28A.305.020 through 28A.305.100.

Summary: The proposed rule amendments correspond with the provisions of chapter 28A.305 RCW and/or amendments thereto since adoption of the rules.

Reasons Supporting Proposal: To assure that the State Board of Education election rules are complete and technically correct.

Name of Agency Personnel Responsible for Drafting: Robert E. Patterson, Attorney General, Superintendent of Public Instruction, Olympia, 753-2298; Implementation and Enforcement: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Eliminates references to "nonvoting" members; corrects identification of the number of board members; eliminates references to "annual" elections; allows for calling an election on "or before" August 21; revises declaration of candidacy in a manner consistent with other rule changes and in several technical respects; changes number of new members in new congressional districts from two to one; revises wording on ballot envelopes; allows for counting ballots on "or before" October 25; clarifies that ballots must be returned via the United States mail; and makes correction in an RCW reference.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will have a minor or negligible economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable; the rules relate only to internal governmental operations; and the Office of Superintendent of Public Instruction is not a specified section 201 agency.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on March 13, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by March 6, 1996, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by March 12, 1996.

Date of Intended Adoption: March 14, 1996.

February 2, 1996
Judith A. Billings
Superintendent of
Public Instruction

PROPOSED

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-040 Purpose. The state board of education consists of ~~((sixteen-voting))~~ nine members elected by the members of public school boards of directors ~~((and))~~, one ~~((nonvoting))~~ member elected by private school boards of directors and the superintendent of public instruction who is an ex officio member of the board. The purpose of this chapter is to provide for the annual election of members to the state board of education by establishing policies and procedures which implement the statutory election process for such positions.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-047 Annual elections. Elections for members of the state board of education shall be conducted ~~((annually))~~ each year preceding the year in which the term of one or more members expires, and as required by RCW 28A.305.090 following a vacancy on the board.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-058 Tentative certification of electors. On or before August twenty-first of each year or if such date is a Saturday, Sunday, or holiday, on or before the state working day immediately preceding such date, the superintendent of public instruction shall certify a tentative list of electors consisting of all persons eligible to vote if the election were held on that date. Such list shall include the weighted vote for each elector based on the previous year's September enrollment.

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-109-065 Candidates—Eligibility—Filing.
(1) Eligibility: A person is eligible to be a candidate for only one vacancy on the state board of education at a time. A candidate for a vacancy among the ~~((sixteen-voting))~~ nine positions on the state board elected by members of public school boards of directors must be a resident of the congressional district represented by the position and meet the other qualifications established by RCW 28A.305.040. A candidate for a vacancy in the ~~((nonvoting))~~ position on the state board elected by private school boards of directors must be a resident of the state of Washington and meet the other qualifications established by RCW 28A.305.040.

(2) Forms for filing: A person who desires to be a candidate shall complete:

(a) The declaration of candidacy and affidavit form provided for in WAC 392-109-070; and

(b) The biographical data form provided for in WAC 392-109-075: *Provided*, That a declarant may elect not to submit biographical data.

(3) Filing period: The filing period for candidates for any position on the state board of education is from September 1 through September 16. Any declaration of candidacy that is not received by the superintendent of public instruction on or before 5:00 p.m. September 16 shall not be accepted and such a declarant shall not be a candidate:

Provided, That any declaration that is postmarked on or before midnight September 16 and received by mail prior to the printing of ballots shall be accepted: *Provided further*, That any declaration received pursuant to the United States mail on or before 5:00 p.m. September 21 that is not postmarked or legibly postmarked shall also be accepted.

AMENDATORY SECTION (Amending Order 84-27, filed 7/11/84)

WAC 392-109-070 Declaration and affidavit of candidacy form. The declaration and affidavit of candidacy which each candidate is required to substantially complete and to file as a condition to having his or her name placed on an official ballot shall be as follows:

I,, solemnly swear (or affirm): That (if filing for a ~~((voting))~~ position elected by members of public school boards of directors) I reside in the Congressional District of the state of Washington or (if filing for the ~~((nonvoting))~~ position elected by private school boards of directors) I reside within the state of Washington; That I am aware that if elected, I cannot concurrently serve as a member of the state board of education and as an employee of any school, college, university, or other educational institution, or any educational service district superintendent's office, or in the office of the superintendent of public instruction, or as a member of the board of directors of either a common school district or a private school; and, That I hereby declare myself a candidate for membership on the state board of education for a term of years beginning on the second Monday in January, 19 , subject to the election to be held during the month of October, 19 , and I request that my name be listed on the ballot therefor.

Further, I solemnly swear (or affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

~~(((Signed))~~
Address:
.....

~~SUBSCRIBED~~ and sworn to before me this day of, 19

~~Notary Public in and for the state of Washington, residing at~~

(Signature)
Address:
.....
Telephone number

State of Washington
County of

Signed and sworn to (or affirmed) before me on (date)
by (name of person making statement).

PROPOSED

PROPOSED

(Seal or stamp) (Signature)
Notary Public
My appointment
expires

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-109-072 Candidates for new congressional district positions—First elections—Term of office. Pursuant to RCW 28A.305.030, at the first election (~~to the two positions in~~) following the creation of a new congressional district, one position shall be elected to serve a ~~((six))~~ four-year term (~~and the other shall serve a three year term~~). Candidates filing for election to a new congressional district position for the first such election shall indicate on the declaration and affidavit of candidacy form required by ~~WAC 392-109-070~~ the initial term of office sought as either six years or three years).

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-085 Ballots and envelopes—Mailing to voters. (1) On or before October 1 ballots shall be mailed to voters together with two envelopes to be used for voting. The outer and larger envelope (i.e., official ballot return envelope) shall:

- (a) Be labeled "official ballot return envelope";
- (b) Be preaddressed with the "superintendent of public instruction" as addressee;
- (c) Have provision for prepaid postage; and
- (d) Have provision for the identification of the voter, his or her school district or school and his or her congressional district if pertinent.

The inner and smaller envelope shall be unlabeled and unmarked.

(2) One ballot and the two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each member of a public school district board of directors.

(3) One official ballot, a number of copies of the ballot, two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each private school addressed as follows: Chairperson of the board of directors, c/o principal or chief administrator, (name and address of the particular private school). It shall be the responsibility of each such chairperson to duplicate the ballot, biographical data and pertinent instructions for voting purposes if necessary and provide a copy to each member of the private school's board of directors.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-090 Voting—Marking and return of ballots. (1) Public school board members: Each member of a public school district board of directors may vote for one of the candidates named on his or her ballot by placing an "x" or other mark in the space provided next to the name of a candidate.

(2) Private school board members: Each member of a private school board of directors shall return his or her marked ballot to the chairperson of the board. The chairperson shall tabulate the votes and be entitled to cast one vote for the candidate who receives a majority of the board members' votes. The chairperson shall then mark the official ballot accordingly.

(3) Return of ballots: Each member of a public school district board of directors and each chairperson of a private school board of directors shall complete voting by:

- (a) Placing his or her marked official ballot in the smaller, unmarked envelope and sealing the same;
- (b) Placing the smaller envelope containing the ballot in the larger preaddressed envelope marked "official ballot return envelope" and sealing the same;
- (c) If not already designated, completing the following information on the face of the official ballot return envelope: Name, identification of school district or private school and, in the case of public school district board members, identification of the congressional district of residence; and
- (d) Placing the official ballot return envelope in the United States mail or otherwise delivering the ~~((ballot))~~ envelope to the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-100 Receipt of ballots and count of votes. (1) As official ballot return envelopes are received by the superintendent of public instruction, a preliminary determination shall be made as to the eligibility of the voter, and a record shall be made on a list of eligible voters and private schools that the voter or school has voted. Official ballot return envelopes not submitted in compliance with this chapter and other envelopes containing ballots shall be set aside for a final review and acceptance or rejection by the election board.

(2) The election board shall convene for the purpose of counting votes on or before October 25 or if such date is a Saturday, Sunday, or holiday, on or before the state working day immediately preceding such date at a date, time and place designated by the superintendent of public instruction. Official ballot return envelopes that are accepted by the election board shall be opened, and the inner envelopes containing ballots shall be removed and placed aside, still sealed. The inner envelopes shall then be opened and the votes counted by the election board.

(3) No record shall be made or maintained of the candidate for which any voter cast his or her vote.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

WAC 392-109-105 Ineligible votes. The following ballots and votes shall be declared void and shall not be accepted:

- (1) Votes for write-in candidates;
- (2) Votes cast on other than an official ballot provided pursuant to this chapter;
- (3) Ballots which contain a vote for two or more of the named candidates;
- (4) Ballots contained in other than an official ballot return envelope provided pursuant to this chapter;

(5) Ballots contained in an official ballot return envelope upon which the voter is not designated by name;

(6) Ballots received after 5:00 p.m. October 16: *Provided*, That any official ballot return envelope that is postmarked on or before midnight October 16 and received pursuant to the United States mail prior to the initial counting of votes by the election board shall be accepted: *Provided further*, That any official ballot return envelope received pursuant to the United States mail on or before 5:00 p.m. on October 21 that is not postmarked or legibly postmarked shall also be accepted; and

(7) Such other ballots or votes as the election board shall determine to be unidentifiable or unlawful.

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-109-120 Special elections. Special elections provided for in RCW 28A.305.030 (new congressional districts), 28A.305.060 (run-off elections) and (~~28A.04.090~~) 28A.305.090 (vacancies) shall be conducted in accordance with the pertinent procedural and substantive provisions of this chapter, including the time schedules governing the conduct of elections, as modified by the superintendent of public instruction to accommodate the special nature of the election and special statutory dates and requirements.

WSR 96-04-034
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed February 2, 1996, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-02-048.

Title of Rule: Success through employment program (STEP), chapter 388-201 WAC.

Purpose: Amends the success through employment program (STEP), a ten-year demonstration project to conform with amendments to our federal waiver, granted under Section 1115 of the Social Security Act.

Statutory Authority for Adoption: RCW 74.12.036, 74.12.420, 74.12.425, and 74.12.901.

Statute Being Implemented: RCW 74.12.036, 74.12.420, 74.12.425, and 74.12.901.

Summary: Amend chapter 388-201 WAC to change implementation time frames for the success through employment program (STEP) as required by amendments to our federal waiver.

Reasons Supporting Proposal: STEP is designed to encourage family unity and discourage long-term stays on AFDC by eliminating the one hundred-hour rule for AFDC-E recipients and imposing ten percent grant reductions on families who have been on AFDC for forty-eight of the last sixty months.

Name of Agency Personnel Responsible for Drafting and Implementation: Sandy Jsames, Division of Income Assistance, (360) 438-8313; and Enforcement: Bernard Nelson, Community Services Division, (360) 438-8408.

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

Rule is necessary because of federal law, 42 U.S.C. 1315.

Explanation of Rule, its Purpose, and Anticipated Effects: STEP is a ten-year demonstration project required by the state legislature and designed to encourage family unity and discourage long-term stays on AFDC. The object of the rule is to amend a ten-year demonstration project, STEP, as required by the state legislature and approved by an amended DHHS waiver. The above changes do not affect other agency rules or the rules of other state agencies or local governments. The proposed rules are drawn in accordance with agreed upon terms and conditions for a waiver of federal AFDC rules. The proposed rules are reasonable and the most cost-effective way to achieve regulatory objectives. The proposed rule amendments do not affect the environment. There is no unauthorized fiscal consequence from the proposed rule amendments

Proposal Changes the Following Existing Rules: STEP eliminates the one hundred-hour rule for AFDC-E recipients and imposes ten percent grant reductions on families who have received AFDC for forty-eight of the last sixty months. This amendment changes implementation time frames in accordance with the state's amended federal waiver.

No small business economic impact statement has been prepared under chapter 19.85 RCW. See Explanation of Rule above.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Please see Explanation of Rule above. The Department of Social and Health Services is not a listed agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on March 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 27, 1996, TDD (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 March 5, 1996.

Date of Intended Adoption: March 13, 1996.

February 2, 1996

Philip A. Wozniak

for Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-200 Definitions. (1) "~~(group)~~ assistance unit" means ~~((#H))~~ AFDC cases ~~((where))~~ in which there are no adults in the assistance unit.

(2) "Hundred-hour control group" means a valid random sample of all AFDC-E cases.

(3) "Hundred-hour treatment group" means all AFDC-E cases not assigned to the hundred-hour control group.

(4) "Length-of-stay grant reduction" means a grant reduction resulting from the assistance unit's length of stay on AFDC.

~~((3))~~ (5) "~~(STEP)~~ Length-of-stay control group" means a valid random sample of all AFDC cases with adults in the assistance unit.

~~((4) "STEP)~~ (6) "Length-of-stay earned income adjustment" means grant adjustments which allow members of the assistance unit to offset length-of-stay grant reductions with their earned income.

~~((5) "STEP)~~ (7) "Length-of-stay treatment group" means all remaining AFDC cases with an adult in the assistance unit, not assigned to ~~((child-only or STEP))~~ the length-of-stay control group(s).

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-300 Participation. (1) Effective July 1, 1996, the department shall assign all AFDC-E assistance units at random to either the hundred-hour treatment group or the hundred-hour control group as the case is converted into the automated client eligibility system (ACES).

(a) AFDC-E child-only assistance units shall be included in STEP's hundred-hour demonstration.

(b) Pursuant to WAC 388-201-400, recipients in the hundred-hour treatment group shall not be subject to the definition of unemployment in WAC 388-215-1375.

(2) Effective January 1, ~~(1996)~~ 1999, the department shall assign all AFDC recipients with an adult in the assistance unit at random to either the ~~(STEP)~~ length-of-stay treatment group or the ~~(STEP)~~ length-of-stay control group.

(a) Child-only assistance units (AFDC-R and AFDC-E) shall be exempt from participation in STEP's length-of-stay demonstration.

(b) Recipients in the ~~(STEP)~~ length-of-stay control group shall not be subject to any of the ~~(STEP)~~ length-of-stay provisions, as delineated in WAC ~~(388-201-400)~~ 388-201-410 through 388-201-480.

(c) Recipients in the ~~(STEP)~~ length-of-stay treatment group shall be subject to the ~~(STEP)~~ length-of-stay provisions delineated in WAC ~~(388-201-400)~~ 388-201-410 through 388-201-480.

~~((2))~~ (3) For the purposes of assigning the assistance unit to a child-only, ~~(STEP)~~ hundred-hour treatment or control group or a length-of-stay treatment or ~~(STEP)~~ length-of-stay control group, the department shall consider adults who are required to be in the assistance unit but are excluded due solely to JOBS or IV-D sanction as adult members of the assistance unit.

~~((3))~~ (4) When an adult enters or leaves an AFDC assistance unit, the department shall redetermine the assistance unit's child-only, ~~(STEP)~~ hundred-hour treatment or control status, and length-of-stay treatment or ~~(STEP)~~ length-of-stay control status.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-400 Hundred-hour treatment group—Elimination of the one-hundred-hour rule. Effective ~~(January)~~ July 1, 1996, the department shall extend the definition of unemployed parent to include recipients in the ~~(STEP)~~ hundred-hour treatment group who are employed and working one hundred hours or more a month for longer

than the six-month period delineated in WAC 388-215-1390(2).

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-410 Length-of-stay treatment group—Assessment of past AFDC receipt. Beginning January 1, 1996, the department shall determine the history of AFDC receipt for all assistance units ~~((in the STEP treatment group))~~ on a monthly basis. For the purposes of this section:

(1) The department shall not count any months of AFDC receipt prior to January 1, 1996;

(2) If there is more than one parent in the assistance unit, the department shall calculate the assistance unit's months on AFDC based on the parent with the longer history of AFDC receipt;

(3) The department shall only include months of AFDC receipt in which the assistance unit:

(a) Received an AFDC grant payment; or

(b) Did not receive a grant payment because the amount of the monthly grant following the budgeting of income or grant reductions was less than ten dollars per month, as specified in WAC 388-245-1400(1).

(4) Months of AFDC receipt shall not include any month in which the assistance unit's grant was suspended because the department has reason to believe ineligibility caused by income or other change of circumstance in the report month would be for one month only, as specified in WAC 388-245-1400(3).

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-420 Length-of-stay treatment group—Initial length-of-stay grant reductions. (1) The department shall apply the following provisions to any assistance unit in the ~~(STEP)~~ length-of-stay treatment group in which an adult has received AFDC benefits for forty-eight months of the last sixty months:

(a) The family shall be subject to an initial length-of-stay grant reduction;

(b) For each month the family is not exempt, as provided in WAC 388-201-450, the department shall impose the initial length-of-stay grant reduction, which is an amount equal to ten percent of the assistance unit's payment standard; and

(c) The department shall not apply a JOBS sanction to a family that is subject to length-of-stay grant reductions.

(2) For the purposes of determining the effect of length-of-stay grant reductions on the assistance unit's AFDC eligibility, the department shall:

(a) ~~((The department shall))~~ Treat length-of-stay grant reductions in the same manner as mandatory grant deductions; and

(b) As specified in WAC 388-270-1400(7), ~~((the department shall))~~ suspend ~~((an individual's))~~ a person's grant when the monthly length-of-stay grant reduction is equal to or more than the grant which would have been paid had no grant reduction occurred.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-430 Length-of-stay treatment group—Additional length-of-stay grant reductions. Except as provided in WAC 388-201-450, once a family is subject to length-of-stay grant reductions:

(1) The department shall reduce monthly AFDC benefits by an additional length-of-stay grant reduction for each additional twelve months the assistance unit receives AFDC.

(2) Each additional length-of-stay grant reduction shall be equal to ten percent of the assistance unit's payment standard.

(3) The department shall only count months in which a length-of-stay grant reduction has been imposed toward the assistance unit's additional twelve months of AFDC receipt.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-440 Length-of-stay treatment group—Redetermination of length-of-stay grant reductions. When a family that is subject to length-of-stay grant reductions terminates from AFDC for one calendar month or more and subsequently reapplies for AFDC, the department shall:

(1) Rescind any previously existing length-of-stay grant reductions; and

(2) Determine whether the re-applicant is subject to an initial length-of-stay grant reduction, based on the re-applicant's AFDC receipt during the last sixty months.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-450 Length-of-stay treatment group—Families exempt from length-of-stay grant reductions. The department shall not impose length-of-stay grant reductions during any month in which an adult assistance unit member is:

(1) Unable to participate in job opportunities and basic skills (JOBS) training program due to incapacity, as specified in WAC ~~((388-47-100-(2)(e)))~~ 388-300-400 (2)(g);

(2) Needed in the home to care for an incapacitated household member;

(3) Needed in the home to care for a child who is two years of age or younger;

(4) Participating satisfactorily in JOBS and no present full-time, part-time, or unpaid work experience job is offered; or

(5) Participating in an unpaid work experience program.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-460 Length-of-stay treatment group—((STEP)) Length-of-stay earned income adjustments. An assistance unit subject to a length-of-stay grant reduction shall be entitled to a ((STEP)) length-of-stay earned income adjustment, which is:

(1) Added to the assistance unit's grant to offset the length-of-stay grant reduction with the earned income of assistance unit members; and

(2) Equal to the amount of the length-of-stay grant reduction or the net nonexempt earned income, whichever is less.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-470 Length-of-stay treatment group—Advance notice of impending length-of-stay grant reductions. Prior to the imposition of any length-of-stay grant reductions, the department shall give notice of potential length-of-stay grant reductions to recipient households in the ((STEP)) length-of-stay treatment group, which have received AFDC for thirty-six of the last sixty months, as follows:

(a) Send advance written notice of impending length-of-stay grant reductions; and

(b) Discuss potential length-of-stay grant reductions with the recipient during a face-to-face interview which is conducted during the recipient's periodic eligibility review.

AMENDATORY SECTION (Amending Order 3925, filed 11/22/95, effective 1/1/96)

WAC 388-201-480 Length-of-stay treatment group—Reducing the impact of cumulative length-of-stay grant reductions. As an assistance unit approaches imposition of a length-of-stay grant reduction of thirty percent or more, the department shall take steps to reduce the impact of the reduced grant on the children in the assistance unit, as follows:

(1) Offer the services of a social worker to discuss the grant reduction or for referrals to emergency food, housing, utility, or clothing resources;

(2) Remind recipients of their option to request a fair hearing to contest imposition of the length-of-stay grant reduction;

(3) Provide a needy nonparental caretaker relative with the option to remove oneself from the assistance unit;

(4) Assess whether a protective payee is required ((# order)) to ((meet)) ensure the needs of the child are met; and

(5) Review the case to determine whether the department needs to take further action to avoid harm to the children in the household.

WSR 96-04-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 2, 1996, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-018.

Title of Rule: WAC 388-245-2020 Monthly reporting—Definitions.

Purpose: Lists definitions of terms related to monthly reporting.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Amendment will clarify the intent of the federal regulation which requires that AFDC applicants with recent employment history, not earnings history, must complete monthly reports for two months following the month of opening.

Reasons Supporting Proposal: To clarify the intent of the federal regulation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Everett, Income Assistance, (360) 438-8322.

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: Amendment will clarify the intent of the federal regulation which requires that AFDC applicants with recent employment history, not earnings history, must complete monthly reports for two months following the month of opening.

Proposal Changes the Following Existing Rules: Only provides clarification. Please see Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Exempt, this change does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Exempt, The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on March 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Supervisor, by February 27, 1996, TDD (360) 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 March 5, 1996.

Date of Intended Adoption: March 13, 1996.

February 2, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

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

WAC 388-245-2020 Monthly reporting—Definitions.

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

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

((*) or

(b) 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((-

*) or

(c) Is a surviving spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or a surviving child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

((*) or

(d) Is a surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

((*) (e) 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;

((*) (f) 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.

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

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

(3) "Homeless assistance unit" means an assistance unit lacking a fixed and regular night-time residence (~~of whose~~) and where the primary night-time residence is a:

((*) (a) Supervised shelter designed to provide temporary accommodations;

((*) or

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

((*) or

(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.

(4) "Migrant assistance unit" means an assistance unit that works in seasonal agricultural employment which requires the assistance unit to be absent from its permanent place of residence overnight.

(5) "Recent work history" means having (~~received earnings~~) been employed in one of the two months prior to the payment month.

WSR 96-04-036

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 2, 1996, 4:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-071.

Title of Rule: WAC 388-49-330 Student.

Purpose: Allows food stamp program eligibility for a student who has parental control over a child under twelve if the student is not living with his or her spouse and the

child's natural, adoptive, or stepparent is not in the same household as the child.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: 7 CFR 273.5 establishes under which circumstances students may be eligible for food stamps. Now, food stamp program eligibility is allowed for a student who has parental control over a child under age twelve if the student is not living with his or her spouse and the child's natural, adoptive, or stepparent is not in the same household as the child.

Reasons Supporting Proposal: 7 CFR 273.5 requires this change.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Wirth, Division of Income Assistance, (360) 438-8324.

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

Rule is necessary because of federal law, 7 CFR 273.5.

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; 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 the Department of Social and Health Services.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on March 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by February 27, 1996, TDD (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 March 5, 1996.

Date of Intended Adoption: March 16, 1996.

February 2, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3777, filed 8/24/94, effective 10/1/94)

WAC 388-49-330 Student. (1) A student, as defined under WAC 388-49-020, shall meet one of the following criteria to receive food stamps:

(a) Work and receive payment for a minimum of twenty hours per week. A self-employed student's minimum weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Work and receive money from a federal or state work study program;

(c) Be responsible for the care of a dependent household member under six years of age;

(d) Participate in the Job Opportunities and Basic Skill Training (JOBS) program;

(e) Be responsible for the care of a dependent household member at least six years of age, but under twelve years of

age, and the department has determined adequate child care is not available during the regular school year to allow the student to:

(i) Attend class and satisfy the twenty hour work requirement; or

(ii) Participate in a state or federally financed work study program.

(f) Be a single parent responsible for the care of a dependent child (~~(twelve)~~) eleven years of age or under regardless of the availability of adequate child care;

(g) Receive benefits from the aid to families with dependent children program; (~~(e)~~)

(h) Attend an institution of higher education through:

(i) The Job Training Partnership Act (JTPA);

(ii) A Food Stamp Act employment and training program;

(iii) Section 236 of the Trade Act of 1974; or

(iv) An approved employment and training program operated by state or local government.

(i) Be an adult who has parental control of a child eleven years of age or under when neither the child's natural, adoptive, or stepparent nor the adult's spouse resides in the household.

(2) Student status begins the first day of the school term.

(3) Student status continues through normal periods of class attendance, vacation, and recess.

(4) Student status is lost when a student:

(a) Graduates;

(b) Is suspended;

(c) Is expelled;

(d) Drops out; or

(e) Does not intend to register for the next normal school term excluding summer school.

WSR 96-04-037
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 2, 1996, 4:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-097.

Title of Rule: WAC 388-507-0740 Special situations and 388-518-1820 LCP-MI resource availability.

Purpose: To correct a cross-reference.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Adds language concerning the correct cross-reference when an MI client transfers a resource.

Reasons Supporting Proposal: This amendment provides a correct cross-reference concerning the transfer of a resource for an MI program client.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, (360) 753-7462.

Name of Proponent: Medical Assistance Administration, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal affects only department staff and clients.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This department is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on March 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by February 27, 1996, TDD (360) 753-0625.

Submit Written Comments to: Merry A. Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, Identify WAC Number, FAX (360) 664-0118, by March 5, 1996.

Date of Intended Adoption: March 13, 1996.

February 2, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

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

WAC 388-507-0740 Special situations. (1) The department shall not allow the AFDC thirty dollars plus one-third earned income exemption for clients applying solely for medical assistance, unless the conditions under subsection (2) of this section apply.

(2) The department shall allow the exemption in subsection (1) of this section when the family has:

(a) Received AFDC cash assistance in one of the four preceding months; and

(b) Not already received the exemption for a maximum of four consecutive months; or

(c) Already received the exemption for the maximum period, but has subsequently not received AFDC cash assistance for at least twelve consecutive months.

(3) The department shall consider an AFDC client terminated from cash assistance as eligible for Medicaid when termination was solely due to an AFDC client:

(a) Ceasing to attend school; or

(b) Refusing to participate in the job opportunities and basic skills (JOBS) training program.

(4) The department shall not consider the transfer of a resource when determining ((~~Medicaid~~)) medical program eligibility for a person who is not institutionalized. For an institutionalized client, refer to WAC 388-513-1365.

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

WAC 388-518-1820 LCP-MI resource availability.

(1) The department shall use AFDC resource guidelines in chapter 388-216 WAC to determine availability of resources, except for provisions under WAC 388-216-2600.

(2) For the transfer of a resource, refer to WAC 388-507-0740(4).

WSR 96-04-040

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 5, 1996, 9:35 a.m.]

Continuance of WSR 96-04-009.

Preproposal statement of inquiry was filed as WSR 95-23-026.

Title of Rule: WAC 308-13-005 Definitions, 308-13-015 Powers and duties of the board, 308-13-024 Application for examination, 308-13-050 Registration by reciprocity, and 308-13-110 Landscape architect listings.

Purpose: To change the hearing date from April 12, 1996, to April 19, 1996.

Hearing Location: Business and Professions Division, 405 Black Lake Boulevard, Conference Room 1, Olympia, WA 98501-9045, on April 19, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sharon M. Kinder by April 17, 1996, TDD (360) 753-1966, or (360) 586-8935.

Submit Written Comments to: FAX (360) 664-2550, by March 29, 1996.

Date of Intended Adoption: April 19, 1996.

February 5, 1996

James D. Hanson

Program Administrator

WSR 96-04-047

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 6, 1996, 10:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-023.

Title of Rule: WAC 180-79-086 Minimum preparation for endorsements for teachers.

Purpose: To provide for a transition period for the implementation of changes to endorsement requirements.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: The proposed amendment gives endorsement candidates approximately two years to complete and apply for an endorsement under previous requirements.

Reasons Supporting Proposal: When requirements are amended individuals need a "grace period" to complete programs in place before the new requirements become mandatory.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way S.E., Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 10, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

February 6, 1996

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

WAC 180-79-086 Minimum preparation for endorsements for teachers. Endorsements granted teachers shall comply with the following:

(1) Endorsements—with the exception of the broad subject area endorsements of English/language arts, music, science, and social studies, which shall require the satisfactory completion of a minimum of forty-five quarter hours (thirty semester hours) of course work—shall require the satisfactory completion of a minimum of twenty-four quarter hours (sixteen semester hours) of course work in the subject area in a regionally accredited institution of higher education or in a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-79 WAC.

(2) Reasonable flexibility shall be permitted in establishing equivalencies for specified subject area course work. The test for substitution of an equivalent course for a stated subject area course is a factual determination that the subject matter content of the equivalent course, or combination of courses, substantially complies with the generally recognized course content of the subject area course.

(3) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university and may not include student teaching credits.

(4) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours as defined in WAC 180-79-086.

(5) When existing requirements regarding the number of credit hours, the titles for endorsements, and/or the essential areas of study are revised by the state board of education for any endorsement area, the candidate may, until the first day of September following two calendar years from the effective date of the rule change, obtain the endorsement by completing either the previous or the revised requirements. Following the September first date established above, all candidates shall meet the revised requirements to obtain an endorsement.

WSR 96-04-048

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 6, 1996, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-054.

Title of Rule: WAC 180-79-311 Specialty area of study.

Purpose: To remove a requirement that the rule be reviewed by PEAC in June 1995 as the date has passed and the review has been completed.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: The proposed amendment removes the requirement that the rule be reviewed by PEAC in June 1995.

Reasons Supporting Proposal: The date of the review has passed and the required review has been completed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way S.E., Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 10, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

February 6, 1996

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

WAC 180-79-311 Specialty areas of study. (1) Specialty areas of study in middle grades, gifted, and at-risk students shall be recognized by the state board of education on the basis of the following:

(a) Completion of twelve quarter hours (eight semester hours) of academic study from a regionally accredited college or university directly addressing knowledge and skills relevant to the respective specialty area as recommended by the respective college/university PEAB; and

(b) Recommendation of the individual by the college/university that has offered the specialty area of study.

February 6, 1996
Larry Davis
Executive Director

(2) Specialty areas of study are not endorsements and shall have no bearing on assignment policies as outlined in chapter 180-18 WAC.

(3) The recognition of specialty areas of study shall in no way impact the requirements for obtaining or maintaining an initial or continuing certificate.

~~((4) The recognition of specialty areas of study shall be reviewed by PEAC with recommendations to the state board of education by June 30, 1995.))~~

WSR 96-04-049
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed February 6, 1996, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-16-075.

Title of Rule: WAC 180-79-334 Computer science—Subject area endorsement.

Purpose: The proposed amendment will update the current rule and allow for future adaptation of the rule to the rapidly changing field.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: The proposed amendment deletes references to outdated programming languages and changes the title and emphasis of the endorsement from computer science to instructional technology.

Reasons Supporting Proposal: The computer environment has changed considerably since the current computer science endorsement was created and this amendment will enable the endorsement to prepare teachers for current and future needs of the field.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way S.E., Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 10, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

AMENDATORY SECTION (Amending Order 4-87, filed 4/3/87)

WAC 180-79-334 (~~Computer science~~) **Instructional technology—Subject area endorsement.** In order to receive an endorsement in (~~computer science~~) instructional technology, the candidate shall have completed the minimum course work credit hours in the subject area of (~~computer science~~) instructional technology, including, but not limited to, credit hours in each of the following essential areas of study:

(1) (~~Computers~~) Technology and society, i.e., ethical use.

(2) Computer (~~software~~) networks and telecommunication system, e.g., Internet.

(3) (~~Data structures.~~

(4) ~~Assembly language.~~

(5) ~~Structured programming in BASIC or Logo.~~

(6) ~~Structured programming in one of the high level languages: LISP, C, Pascal, PROLOG, FORTRAN, PL 1, Smalltalk, COBOL, Modula 2, FORTH, RPG.))~~ Instructional hardware usage and classroom applications.

(4) Instructional software, including word processing, data base management systems, spreadsheets and use of multimedia tools, e.g., sound, video, hypertext, and graphics.

(5) Development of student learning activities which integrate technology tools and telecommunications.

WSR 96-04-052A
PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed February 6, 1996, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-19-096.

Title of Rule: Amending WAC 356-42-055 Arbitration—Grievance—Procedure, 356-37-020 Prehearing procedures—Exhibits and possible stipulations—Witnesses, 356-37-030 Statement of position—Hearings, 356-37-040 Scheduling of hearings—Time allotted, 356-37-050 Hearings—Continuances and 356-37-100 Subpoenas—Issuance—Content—Service; and new sections WAC 356-37-160 Prehearing conference and 356-37-170 Withdrawals—Default at hearings.

Purpose: These rules apply to labor relations issues, board procedures and the hearing process.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These rule modifications are either to clarify the board's existing practices or for clarification purposes. These modifications will also allow the board or its designee to conduct prehearing conferences.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe the procedure for grievance arbitration and the hearing process before the Personnel Resources Board. These rules provide procedures when petitioning for arbitration and the hearing process. Currently, there is no provision in these rules for the board or its designee to conduct prehearing conferences. These modifications will allow the board or its designee to conduct prehearing conferences and are also for clarification purposes.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 14, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by March 7, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by March 12, 1996.

Date of Intended Adoption: March 14, 1996.

February 6, 1996

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 90-08-020 (Order 340), filed 3/28/90, effective 5/1/90)

WAC 356-42-055 Arbitration—Grievance—Procedure. Whenever arbitration of a grievance is requested of the personnel resources board pursuant to an agreement as authorized by WAC 356-42-050(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the ((personnel)) board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the

pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the specific issue(s) to be arbitrated.

~~((e))~~ (f) A statement of the relief sought.

~~((f))~~ (g) The signature and, if any, the title of the person filing the request for arbitration.

(h) A copy of the original grievance and the agency's last written response to the grievance shall be attached to the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) ~~((of this section))~~. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

~~((2))~~ A copy of the original grievance and the agency's last written response to the grievance shall be attached to the request for arbitration.

~~((4))~~ (3) The ((personnel)) board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) ~~((of this section))~~. If the ((personnel board's)) hearings coordinator determines the request ~~((to be))~~ is incomplete, ~~((he or she shall notify))~~ the person filing the request is notified of the portions ~~((of the request))~~ which need to be supplemented or changed to comply with subsection (1) ~~((of this section))~~. When the ((personnel board's)) hearings coordinator ~~((is satisfied))~~ determines that the request substantially complies with subsection (1) ~~((of this section))~~ he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the ((personnel board's)) hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the ((personnel)) board upon motion of the requesting party.

~~((5))~~ (4) ~~((Within thirty calendar days of service of the request for arbitration, or within such longer period as the personnel board may allow, the party receiving the request may answer the allegations of fact and contentions set forth in the request by admitting, denying, or setting forth doubt as to the truth or falsity of any particular alleged fact or contention. The answer shall be served on the grievant or, if represented, on the grievant's representative, at the same time it is filed with the personnel board. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration. At the discretion of the personnel board for good cause shown, the request or the answer may be amended at any time prior to the end of the arbitration hearing.))~~ After the request for arbitration is served on the opposing party(ies), the board or the board's designee may direct the parties or their representatives to engage in a prehearing conference(s) in accordance with WAC 356-37-160.

~~((6))~~ (5) ~~((After receipt of the answer, or if no answer is timely filed, the personnel board's hearings coordinator shall set the matter for arbitration by the board or its designee. At least twenty days notice shall be given of the time and date of the arbitration unless both parties agree to a shorter time.))~~ The board's hearings coordinator shall schedule the arbitration for hearing pursuant to WAC 356-37-040.

~~((7))~~ (6) ~~((Prior to the arbitration hearing the parties shall attempt to reach agreement on the issue(s) to be~~

PROPOSED

~~arbitrated. If successful they shall jointly stipulate to the issue(s). The department of personnel representative who mediated the grievance shall be available to assist if requested. If a joint stipulation is not reached, each shall submit a statement on what they believe the issue(s) to be. In such cases the board or its designee shall state the issue(s) at the beginning of the hearing.)~~ Within fifteen calendar days from the date of service of the acknowledgment of the arbitration request, the respondent shall submit a written statement of issues(s) to be arbitrated. If no response is received, the petitioners' statement of issue(s) will be deemed to be the issue(s) at the arbitration hearing unless otherwise determined by the personnel resources board.

~~((8))~~ (7) Upon stipulation between the parties, the board or designee may grant the grievant's request to waive the right to an evidentiary hearing and thereafter require the parties to submit written evidence upon which the board or designee may act without a hearing.

~~((9))~~ (8) If the matter is heard directly by the board, a final and binding decision will be issued. If the matter is heard by the board's designee, a recommended decision will be issued. Within thirty calendar days of its service, either party may request the board to review the designee's decision. The review will be limited to specific areas of the decision to which the party takes exception. The requesting party must provide written argument in support of the exceptions. The board will consider the exceptions and may in its discretion hear oral argument. Thereafter, the board will issue a decision which shall be final and binding on the parties. The designee's decision will become final and binding forty calendar days after it was served on the parties if no exceptions are filed, unless the board calls a hearing to reconsider the decision.

~~((10))~~ (9) The grievant shall have the burden of proof and go forward with the evidence.

~~((11))~~ (10) The board or its designee shall be the judge of relevancy and materiality of evidence offered. Technical rules of evidence shall not apply to the proceedings.

~~((12))~~ (11) The provisions of chapter 356-37 WAC (Hearings—General procedures) shall apply to the conduct of grievance arbitration hearings, except as otherwise provided in ~~((WAC 356-42-055 and 356-42-056))~~ this section.

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.

NEW SECTION

WAC 356-37-160 Prehearing conference. (1) The personnel resources board or its designee may direct the parties or their representatives to engage in an informal prehearing conference(s) to consider the following:

- (a) Simplification or limitation of specific issues;
- (b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (c) Discovery, discovery methods and discovery deadlines;
- (d) The number of witnesses expected to be called and their names when possible;

(e) The approximate time necessary for presentation of the evidence of the respective parties;

(f) Whether or when motions may be brought;

(g) Exhibits;

(h) Affidavits; and

(i) Such other matters as may aid in the prompt disposition of the petition.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the board or its designee.

(3) The parties are encouraged where possible to resolve their disputes. To facilitate such resolution, the board or its designee may recess the conference at any time to give the parties time to discuss settlement. In the event settlement is reached, the grievant/petitioner or representative shall sign a request to withdraw the petition.

(4) If no settlement is reached, the board or its designee shall schedule the hearing.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-020 Prehearing procedures—Exhibits ~~((and possible stipulations—Witnesses))~~. (1) At any hearing before the personnel resources board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the ~~((personnel))~~ board members, for the court reporter, if any, and for the ~~((personnel))~~ board's ~~((hearings coordinator))~~ official file.

(2) The parties shall arrive at the hearing location ~~((in sufficient time))~~ at least thirty minutes before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. ~~((Whenever practicable,))~~ ~~((The parties shall ((have the)) pre-mark their exhibits ((which they intend to offer into evidence premarked)) for identification ((by the personnel board's hearings coordinator before the scheduled time for)) and present copies to other parties and the board's staff prior to commencement of the hearing.~~

~~((3) Whenever practicable, the parties should discuss the possibility of obtaining stipulations, admissions of facts and of documents prior to the hearing. If a particular matter appears from the file to be complex, or if the parties so request, the personnel board may request its hearings coordinator to meet with the parties prior to the day set for the hearing to discuss the possibility of obtaining stipulations, admissions of fact and of documents, and simplification of issues. The personnel board will not make such a request on its own motion unless all parties are appearing through representatives.)~~

~~((4) Whenever practicable, the parties should exchange lists of witnesses prior to the day set for the hearing.)~~

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-030 ((Statement of position—Hearings)) Filing of prehearing statements. (1) Parties are encouraged to file prehearing statements of position with the personnel resources board. The board may request all parties to submit a prehearing statement. The statements should include a summary of the evidence the party intends

to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition. Such documents shall be provided to the board and to the opposing party no later than fourteen calendar days prior to the scheduled hearing date. Any response by the opposing party shall be served no later than seven calendar days prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) ~~((If a party wishes to provide a prehearing statement of position, he or she must serve a copy of the statement on each opposing party, on each personnel board member, and on the personnel board's hearings coordinator. Service shall be accomplished either personally or by mail. However service is made, it must be timed so that the statement will be received by the persons upon whom service is to be made at least three business days prior to the hearing.))~~ A party submitting prehearing statement(s) shall provide the original and three copies to the board, and one copy to the opposing party.

(3) ~~((Statements of position filed at the time of the hearing will not be considered by the personnel board unless for good cause shown the personnel board directs otherwise.))~~ The board will determine whether to consider documents that are filed at the time of the hearing.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-040 Scheduling of hearings ~~((—Time allotted)). ((In all hearings before the personnel board, the personnel board's hearings coordinator will set the date of the hearing and the amount of time allotted to each party for the hearing. Prior to setting the matter, the hearings coordinator will consult with all parties as to available dates and length of hearing. At least twenty calendar days notice shall be given of the time and date of the hearing unless both parties agree to a shorter time.))~~ Prior to scheduling the hearing, the hearings coordinator will give the parties an opportunity to indicate preferred dates and amount of time allotted of the hearing. The hearings coordinator shall schedule all hearings before the personnel resources board with written notice, specifying the time, place, and length of the hearing. Notice of hearing shall be mailed not less than thirty calendar days prior to the date of the hearing, unless all parties agree to a shorter notice period. Primary and/or secondary hearings may be scheduled.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-050 Hearings—Motion for ~~((C))~~ continuance(s)—Procedure. ~~((Upon receipt of a notice of hearing, or as soon thereafter as circumstances necessitating a continuance come to its knowledge, any party desiring to continue the hearing to a later date shall make a request for continuance to the personnel board. All continuance requests shall be in writing and, in detail, shall specify the reasons the continuance is necessary. In passing upon a request for continuance, the personnel board shall consider whether the request was promptly and timely made. For good cause shown, the personnel board may grant a continu-~~

~~ance and may at any time order a continuance on its own motion.))~~

(1) Any party to a hearing may make a written motion(s) to the board to continue a hearing by showing good cause. The motion(s) shall state the specific reason(s) and the period of time for which a continuance is necessary.

(2) Any party desiring a continuance shall first contact the opposing party to determine whether agreement to a continuance can be reached. The requesting party will immediately notify, in writing, the board of the request, the reason(s) for the request, and the opposing party's response to the request.

(3) If the opposing party agrees to a continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the board and the opposing party at least fourteen calendar days prior to the scheduled hearing date. The board or its designee shall review the motion, make a decision whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(4) If the opposing party does not agree to the continuance, the requesting party shall submit the motion in writing. The motion shall be served on the board and on the opposing party at least fourteen calendar days prior to the scheduled hearing date. The board or its designee shall review the motion, make a decision whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(5) In unusual circumstances, and only where the reason(s) for the continuance could not have been foreseen, a motion for continuance may be made when the party seeking the continuance becomes aware of the facts upon which the request for continuance is based. The following will apply:

(a) The requesting party shall notify the other party of the desire for a continuance and obtain the other party's response.

(b) The requesting party shall notify the board or board's hearings coordinator in writing of the request, the reason(s) for the request, and the opposing party's response to the request.

(c) The board or its designee shall review the request, make a decision whether or not to grant the continuance, and notify the parties of the decision as soon as possible.

(6) The opposing party may submit a written statement in opposition or support of the motion for continuance to the board and other parties upon receipt of the motion.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-100 Subpoenas—Issuance—Content—Service. (1) Subpoenas may be issued by any member of the board or its designee, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by the members of the board or its designee shall submit a written request to the board or its designee at least fourteen calendar days prior to the hearing.

(2) Every subpoena shall name the board and the title of the proceedings, if any, and shall command the person to

whom it is directed to attend and give testimony or produce designated books, documents, or things under his/her control at a specified time and place.

(3) Parties requesting subpoenas shall make arrangements for service. Service of subpoena shall be made by delivering a copy of the subpoena to such person and by ~~((tendering him))~~ paying on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law.

NEW SECTION

WAC 356-37-170 Withdrawals—Default at hearings.

(1) Withdrawals requested by the grievant/~~((appellant))~~ petitioner or representative shall be filed with the board and each opposing party, in writing, no later than ~~((five work-ing))~~ seven calendar days prior to the hearing date. Under unusual circumstances, the board may consider the request for withdrawal at a shorter time than the required ~~((five working))~~ seven calendar days.

(2) If a party fails to attend or participate in a hearing or other state of a proceeding, the board may serve upon all parties a default or dismissal order which shall include a statement of the grounds for the order. Within seven calendar days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon.

Reviser's note: The unnecessary underscoring and deletion marks 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 96-04-053 PROPOSED RULES PERSONNEL RESOURCES BOARD

[Filed February 6, 1996, 3:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-02-001.

Title of Rule: Amending WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes, 251-12-232 Prehearing conference, 251-12-099 Filing of prehearing statements, briefs, and written argument, 251-12-100 Hearings before the board, 251-12-102 Motion for continuance—Procedure and 251-12-180 Subpoenas—Issuance to parties; new sections WAC 251-14-130 Arbitration—Grievance—Procedure, 251-12-104 Prehearing procedures—Exhibits, 251-12-105 Scheduling of hearings and 251-12-106 Withdrawals—Default at hearings; and repealing WAC 251-12-101 Motion(s) for continuance.

Purpose: These rules apply to labor relations issues, board procedures and the hearing process.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These rule modifications are either to clarify the board's existing practices or for clarification purposes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe the procedure for grievance arbitration and the hearing process before the Personnel Resources Board. These proposed rules provide procedures for petitioning for arbitration and the hearing process. Currently, there is no provision in these rules regarding specific procedures for petitioning for arbitration. These modifications are also for clarification purposes.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 14, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by March 7, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by March 12, 1996.

Date of Intended Adoption: March 14, 1996.

February 6, 1996

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 89-08-003 (Order 176), filed 3/23/89, effective 5/1/89)

WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes. (1) When the director or designee is unable to resolve the collective bargaining impasse, the institution or the certified exclusive representative may submit such impasse to the board for arbitration. The board will hold a hearing at which the parties may submit evidence and argument in support of their respective positions.

(2) When the director or designee is unable to resolve a grievance dispute, the exclusive representative, employee or employer may submit such dispute to the board for arbitration in accordance with WAC 251-14-130. ~~((Requests for grievance arbitration must be submitted within thirty calendar days or less from the date the director or designee indicates in writing that the mediation is at impasse. The board, or its designee whose decision is appealable to the board, will hold a hearing at which the parties may submit evidence and argument in support of their respective positions. Written exceptions must be filed within thirty calendar days of the date of service of the designee's order. If both parties agree, the hearing before the board shall be limited to the filed exceptions.))~~

~~((3) The decision of the board shall be final and binding.))~~

PROPOSED

NEW SECTION

WAC 251-14-130 Arbitration—Grievance—Procedure. Whenever arbitration of a grievance is requested of the personnel resources board pursuant to an agreement as authorized by WAC 251-14-060(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the specific issue(s) to be arbitrated.

(f) A statement of the relief sought.

(g) The signature and, if any, the title of the person filing the request for arbitration.

(h) A copy of the original grievance and the agency's last written response to the grievance shall be attached to the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1). Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) The board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1). If the hearings coordinator determines the request is incomplete, the person filing the request is notified of the portions which need to be supplemented or changed to comply with subsection (1). When the hearings coordinator determines that the request substantially complies with subsection (1) he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the board upon motion of the requesting party.

(4) After the request for arbitration is served on the opposing party(ies), the board or the board's designee may direct the parties or their representatives to engage in a prehearing conference(s) in accordance with WAC 251-12-232.

(5) The board's hearings coordinator shall schedule the arbitration for hearing pursuant to WAC 251-12-105.

(6) Within fifteen calendar days from the date of service of the acknowledgment of the arbitration request, the

respondent shall submit a written statement of issue(s) to be arbitrated. If no response is received, the petitioners' statement of issue(s) will be deemed to be the issue(s) at the arbitration hearing unless otherwise determined by the personnel resources board.

(7) Upon stipulation between the parties, the board or designee may grant the grievant's request to waive the right to an evidentiary hearing and thereafter require the parties to submit written evidence upon which the board or designee may act without a hearing.

(8) If the matter is heard directly by the board, a final and binding decision will be issued. If the matter is heard by the board's designee, a recommended decision will be issued. Within thirty calendar days of its service, either party may request the board to review the designee's decision. The review will be limited to specific areas of the decision to which the party takes exception. The requesting party must provide written argument in support of the exceptions. The board will consider the exceptions and may in its discretion hear oral argument. Thereafter, the board will issue a decision which shall be final and binding on the parties. The designee's decision will become final and binding forty calendar days after it was served on the parties if no exceptions are filed, unless the board calls a hearing to reconsider the decision.

(9) The grievant shall have the burden of proof and go forward with the evidence.

(10) The board or its designee shall be the judge of relevancy and materiality of evidence offered. Technical rules of evidence shall not apply to the proceedings.

(11) The provisions of chapter 251-12 WAC (Hearings—General procedures) shall apply to the conduct of grievance arbitration hearings, except as otherwise provided in this section.

AMENDATORY SECTION (Amending WSR 89-22-020, filed 10/24/89, effective 12/1/89)

WAC 251-12-232 Prehearing conference. ~~((1) The hearing examiner may direct the parties or their representatives to engage in an off the record prehearing conference or conferences to consider the following:))~~

~~((a) Simplification of issues;))~~

~~((b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;))~~

~~((c) Procedural matters; and))~~

~~((d) Such other matters as may aid in the disposition or settlement of the proceeding;))~~

~~((2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the hearing examiner;))~~

~~((3) The hearing examiner may, at his or her discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this section;))~~

(1) The personnel resources board or its designee may direct the parties or their representatives to engage in an informal prehearing conference(s) to consider the following:

(a) Simplification or limitation of specific issues;

PROPOSED

(b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;

(c) Discovery, discovery methods and discovery deadlines;

(d) The number of witnesses expected to be called and their names when possible;

(e) The approximate time necessary for presentation of the evidence of the respective parties;

(f) Whether or when motions may be brought;

(g) Exhibits;

(h) Affidavits; and

(i) Such other matters as may aid in the prompt disposition of the petition.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the board or its designee.

(3) The parties are encouraged where possible to resolve their disputes. To facilitate such resolution, the board or its designee may recess the conference at any time to give the parties time to discuss settlement. In the event settlement is reached, the grievant/petitioner or representative shall sign a request to withdraw the petition.

(4) If no settlement is reached, the board or its designee shall schedule the hearing.

AMENDATORY SECTION (Amending WSR 90-13-017, filed 6/8/90, effective 7/9/90)

WAC 251-12-099 Filing of prehearing statements(~~and briefs, and written argument~~)). ~~((1) Any party to a hearing before the board who desires to submit, or when the board requests all parties to submit, a prehearing statement, prehearing brief, or written argument will provide such documents to the board and to each opposing party no later than fourteen calendar days prior to the scheduled hearing date.))~~

~~((2) Any party submitting such documents will provide the original and three copies to the board, and one copy to each opposing party.))~~

~~((3) Submission of documents will be accomplished when board staff receives the original document in the board's Olympia, Washington, headquarters.))~~

(1) Parties are encouraged to file prehearing statements of position with the personnel resources board. The board may request all parties to submit a prehearing statement. The statements should include a summary of the evidence the party intends to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition. Such documents shall be provided to the board and to the opposing party no later than fourteen calendar days prior to the scheduled hearing date. Any response by the opposing party shall be served no later than seven calendar days prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) A party submitting prehearing statement(s) shall provide the original and three copies to the board, and one copy to the opposing party.

(3) The personnel resources board will determine whether to consider documents that are filed at the time of the hearing.

NEW SECTION

WAC 251-12-104 Prehearing procedures—Exhibits.

(1) At any hearing before the personnel resources board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the board members, for the court reporter, if any, and for board's official file.

(2) The parties shall arrive at the hearing location at least thirty minutes before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. The parties shall pre-mark their exhibits for identification and present copies to other parties and the board's staff prior to commencement of the hearing.

NEW SECTION

WAC 251-12-105 Scheduling of hearings. Prior to scheduling the hearing, the hearings coordinator will give the parties an opportunity to indicate preferred dates and amount of time allotted of the hearing. The hearings coordinator shall schedule all hearings before the personnel resources board with written notice, specifying the time, place, and length of the hearing. Notice of hearing shall be mailed not less than thirty calendar days prior to the date of the hearing, unless all parties agree to a shorter notice period. Primary and/or secondary hearings may be scheduled.

AMENDATORY SECTION (Amending WSR 89-22-020, filed 10/24/89, effective 12/1/89)

WAC 251-12-100 Hearings before the board. (1) Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests. On motion of a party or on the hearing examiner's own motion, witnesses may be excluded from any hearing except when testifying. Photographic and recording equipment may be permitted; however, the hearing examiner may impose such conditions upon their use as he or she deems necessary to prevent disruption of the hearing. Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) ~~((Both parties shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the board.))~~ Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board according to the provisions of RCW 5.28.020 through 5.28.060. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court.

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails.

REPEALER

~~((WAC 251-12-101—Motion(s) for continuance.))~~

AMENDATORY SECTION (Amending WSR 89-22-020, filed 10/24/89, effective 12/1/89)

WAC 251-12-102 Hearings—Motion for continuance—Procedure. ~~((Any party desiring a continuance shall first contact the opposing party to determine whether agreement to a continuance can be reached. The requesting party will immediately notify the board or hearing examiner orally of the request, the reason(s) for the request, and the opposing party's response to the request.))~~

~~((1) If the opposing party agrees to a continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the director and served on the board or hearing examiner and the opposing party at least five working days prior to the scheduled hearing date. When the requesting party is represented by a union representative, a management representative, or an attorney at law, the requesting party's representative shall be responsible for coordinating a hearing date with the other parties. The board or hearing examiner shall review the motion, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.))~~

~~((2) If the opposing party does not agree to the continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the director and served on the board or hearing examiner and served on the opposing party at least five working days prior to the scheduled hearing date. The board or hearing examiner shall review the motion, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.))~~

~~((3) In unusual circumstances, and only where the reason(s) for the continuance could not have been foreseen, a motion for continuance may be made when the party seeking the continuance becomes aware of the facts upon which the request for continuance is based. The following will apply:))~~

~~((a) The requesting party shall notify the other party of the desire for a continuance and obtain the other party's response.))~~

~~((b) The requesting party shall notify the board or hearing examiner orally of the request, the reason(s) for the request, and the opposing party's response to the request.))~~

~~((c) The board or hearing examiner shall review the request, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.))~~

(1) Any party to a hearing may make a written motion(s) to the board to continue a hearing by showing good cause. The motion(s) shall state the specific reason(s) and the period of time for which a continuance is necessary.

(2) Any party desiring a continuance shall first contact the opposing party to determine whether agreement to a continuance can be reached. The requesting party will immediately notify, in writing, the board of the request, the reason(s) for the request, and the opposing party's response to the request.

(3) If the opposing party agrees to a continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the board and the opposing party at least fourteen calendar days prior to the scheduled hearing date. The board or its designee shall review the motion, make a decision whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(4) If the opposing party does not agree to the continuance, the requesting party shall submit the motion in writing. The motion shall be served on the board and on the opposing party at least fourteen calendar days prior to the scheduled hearing date. The board or its designee shall review the motion, make a decision whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(5) In unusual circumstances, and only where the reason(s) for the continuance could not have been foreseen, a motion for continuance may be made when the party seeking the continuance becomes aware of the facts upon which the request for continuance is based. The following will apply:

(a) The requesting party shall notify the other party of the desire for a continuance and obtain the other party's response.

(b) The requesting party shall notify the board or board's hearings coordinator in writing of the request, the reasons(s) for the request, and the opposing party's response to the request.

(c) The board or its designee shall review the request, make a decision whether or not to grant the continuance, and notify the parties of the decision as soon as possible.

(6) The opposing party may submit a written statement in opposition or support of the motion for continuance to the board and other parties upon receipt of the motion.

AMENDATORY SECTION (Amending WSR 89-22-020, filed 10/24/89, effective 12/1/89)

WAC 251-12-180 Subpoenas—Issuance to parties. Subpoenas may be issued by any member of the board, ~~((the director, or the hearing examiner before whom the appeal is to be heard))~~ or its designee, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by members of the board or ~~((the director))~~ its designee shall ~~((prepare them for issuance, send them to the board's office for signature, and upon return shall make arrangements for service))~~ submit a written request to the board or its designee. Requests for subpoenas must be submitted at least fourteen calendar days prior to the hearing.

Parties requesting subpoenas shall make arrangements for service. The service of all subpoenas shall be at the expense of the party requiring the witness to appear. ~~((In order to insure return to the requesting party in time for service, it is recommended that all subpoenas be submitted at least five calendar days prior to the hearing.))~~

NEW SECTION

WAC 251-12-106 Withdrawals—Default at hearings.

(1) Withdrawals requested by the grievant/petitioner or representative shall be filed with the board and each opposing party, in writing, no later than seven calendar days prior to the hearing date. Under unusual circumstances, the board may consider the request for withdrawal at a shorter time than the required seven calendar days.

(2) If a party fails to attend or participate in a hearing or other stage of a proceeding, the board may serve upon all parties a default or dismissal order which shall include a statement of the grounds for the order. Within seven calendar days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon.

**WSR 96-04-054
PROPOSED RULES
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Filed February 6, 1996, 3:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-22-029.

Title of Rule: Chapter 286-04 WAC, General; chapter 286-13 WAC, General grant assistance; chapter 286-26 WAC, Nonhighway and off-road vehicle funds; chapter 286-27 WAC, Washington wildlife and recreation program; chapter 286-30 WAC, Firearms range; chapter 286-35 WAC, Initiative 215 boating facilities; and chapter 286-40 WAC, Land and water conservation fund.

Purpose: To update the codes to conform to recent RCW changes, clarify existing policies, establish new policies, improve overall WAC organization, and eliminate unnecessary and repetitious text.

Statutory Authority for Adoption: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720(4).

Statute Being Implemented: Same.

Summary: Changes are made in all chapters except 286-06 WAC, Public records. Financial account names are updated and the history of agency fund sources is expanded. New sections are added on: (1) Eligible matching resource types, deadlines, amounts, and caps; (2) nondiscrimination; (3) commercial income; (4) deeds of right and conversions for land acquisitions; and (5) conversions, leases, and easements for developments.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, 1111 Washington Street S.E., Olympia, 98504-0917, (360) 902-3000; Implementation and Enforce-

ment: Laura E. Johnson, 1111 Washington Street S.E., Olympia, 98504-0917, (360) 902-3000.

Name of Proponent: Interagency Committee for Outdoor Recreation (IAC), public.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None, other than those contained in the attached update.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal makes a number of housekeeping changes to each of IAC's WAC chapters, except that which addresses "public records," chapter 286-06 WAC. For example, definitions for words not found are deleted, as is repetitious language. The name of the firearms and archery range recreation program is updated, as is text on discrimination and preferences. Some text is moved to more appropriate sections. The obsolete concept of a "master list" of projects is deleted. New sections are created to describe matching fund requirements, procedures for establishing percentage matching fund amounts and caps; land acquisition deeds of right, conversions, leases, and easements; and development project conversions. Planning requirements are clarified. These changes improve the overall organization of IAC's rules and make them easier to read. They also clarify current IAC policies regarding matching funds, deeds of right, conversions, leases, and easements.

Proposal Changes the Following Existing Rules: Sections specifying that IAC will establish matching amount and cap requirements each year are added to the following program chapters; nonhighway and off-road vehicle activities, chapter 286-26 WAC; Washington wildlife and recreation, chapter 286-27 WAC; boating facilities, chapter 286-35 WAC and land and water conservation fund, chapter 286-40 WAC. Sections formalizing IAC's standard requirements on land acquisition deeds of right, conversions, leases, and easements, and facility development conversions are added to the Washington wildlife and recreation program, chapter 286-27 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule changes are directed at IAC's grant recipients, that is, local, state, and federal governmental agencies and nonprofit firearm and archery range organizations. The changes referenced will enhance efficiency and compliance with existing laws and procedures. It is not believed that small businesses will be impacted in any way.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Natural Resources Building, Room 175, 1111 Washington Street S.E., Olympia, WA, on March 25, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Greg Lovelady by March 12, 1996, TDD (360) 902-1996 message, or (360) 902-3000 (message).

Submit Written Comments to: Greg Lovelady, 1111 Washington Street S.E., Olympia, 98504-0917, FAX (360) 902-3026, by March 12, 1996.

Date of Intended Adoption: Afternoon of March 25, 1996.

February 5, 1996
Greg Lovelady
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-010 Definitions. For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

~~("Advisory committees" mean committees of representatives of federal, state, and local governmental entities, public at large, user organizations and private enterprise, or any combination thereof, that provide technical expertise and consultation on request on matters of concern to the committee.)~~

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.

"Chair" means the chair of the committee. See RCW 43.99.110.

"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.

"Development" means the construction of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

"Local agencies" mean those public bodies eligible to apply for and receive funds from the committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.

~~("Master list" means those grant projects approved, in turn, through committee and legislative processes, and subsequently returned to the committee for funding.)~~

"Nonhighway (~~road~~) and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

~~("Nonprofit organization" means any group registered as a nonprofit or not for profit organization with the Washington secretary of state and the United States Internal Revenue Service. The organization's articles of incorporation must contain provisions for the organization's structure, officers, legal address, and registered agent.)~~

~~("(Participation) Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).~~

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

~~("Retroactive costs" mean those project expenses incurred prior to execution of a project agreement.)~~

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-030 Goals. The general goals of the committee are to:

(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize protection of the natural quality of the environment;

(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;

(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under their jurisdiction, will best serve ~~(the local)~~ their needs for outdoor recreation and habitat conservation;

(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper stewardship of recreation and natural resources. See also RCW 43.99.010.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-060 ((Participation)) Manuals and waivers-guidance. (1) The committee shall ~~(cause to be written for use by applicants, potential applicants, sponsors, and others, participation)~~ adopt manuals that describe its general administrative ~~(matters to be followed in order to conform to the)~~ policies ~~(of the committee)~~ for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

(2) The manuals shall be considered and approved by the committee in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the ~~(participation)~~ manuals. Determinations on petitions for waivers made by the director are subject to review by the committee at the request of the petitioner.

(4) Petitions for waivers of subjects dealing with committee policy, and those petitions that in the judgment of the director require committee review, shall be referred to the committee for deliberation. Such waivers may be granted after consideration by the committee at an open public meeting.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-070 Director's authority. Consistent with RCW 43.99.025, and other applicable laws, the director is delegated the authority and responsibility to carry out policies of the committee. This includes, but is not limited to the authority to:

- (1) Administer committee programs; employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;
- (2) ~~((Approve master list projects of state agencies;~~
- ~~(3))~~ Administer all applicable rules, regulations and requirements established by the committee or reflected in the laws of the state;
- ~~((4))~~ (3) Approve certain cost increase or waiver requests.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

WAC 286-04-080 Federal overlay and requirements. At times through the years, the ((interagency)) committee's grant((in aid)) programs ((is)) have been closely interrelated with ((both the)) certain federal grant programs. For example, see WAC 286-40-010, Land and Water Conservation Fund ((and the Urban Park and Recreation Recovery Acts, each of which is administered by the United States Department of Interior)). The result of this interrelationship is that there are many federal requirements imposed ((upon)) on the ((interagency)) committee and its applicants ((to the interagency committee,)) over which the ((interagency)) committee has no control.

Many of these requirements may be found in the Land and Water Conservation Fund Grants Manual (National Park Service) ((Grant in Aid Manual)). In addition, most of the federal requirements are restated or clarified in the ((participation)) manuals.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-04-090 History of fund sources. ((From time to time,)) (1) As of July 1, 1995, the "recreation resource account" included appropriations and funds, under RCW 43.99.040, in support of the committee's boating facilities and other programs. These funds are derived from:

- (a) Unclaimed marine fuel tax refunds;
 - (b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and
 - (c) Such other sources as may be provided.
- (2) As of July 1, 1995, the "NOVA program account" included appropriations and funds, under RCW 46.09.110 and 46.09.170, in support of the committee's nonhighway and off-road vehicle activities program. These funds are derived from:

- (a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;
 - (b) Off-road vehicle permit fees; and
 - (c) Such other sources as may be provided.
- (3) As of July 1, 1990, the "habitat conservation account" included appropriations and funds, under chapter 43.98A RCW, in support of the committee's Washington

wildlife and recreation program. These funds are derived from:

- (a) Sales of bonds approved in capital budget appropriations;
 - (b) Such other sources as may be provided.
- (4) As of July 1, 1995, the "outdoor recreation account" included appropriations and funds, under chapter 43.98A RCW, in support of the committee's Washington wildlife and recreation program. These funds are derived from:
- (a) Sales of bonds approved in capital budget appropriations;
 - (b) Such other sources as may be provided.
- (5) Prior to July 1, 1995, the "outdoor recreation account" ((has)) included ((moneys)) appropriations and funds, in support of the committee's programs. Funds were derived from:

- ((1)) (a) Unclaimed marine fuel tax refunds under RCW 43.99.040;
 - ((2)) (b) Sales of bonds under Referenda 11, 18, and 28, and ((recreational bond issue funds authorized by the state legislature under authority of Article VIII, Section 1, Constitution of the state of Washington (1971 House Joint Resolution 52, approved November 1972))) HJR 52;
 - ((3) The) (c) State apportionments of the federal land and water conservation fund((s; and));
 - ((4) From) (d) Moneys refunded from the motor vehicle fund under RCW 46.09.170 and funds received under RCW 46.09.110 for nonhighway and off-road vehicle purposes;
 - (e) Off-road vehicle permit fees;
 - (f) Sales of general obligation bonds for outdoor recreation purposes under RCW 43.98A.050; and
 - (g) Such other sources((, and for such specific purposes,)) as ((the legislature has)) were provided ((or may provide)).
- (6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under RCW 77.12.720, in support of the committee's firearms and archery range recreation programs. These funds are derived from:
- (a) Concealed pistol license fees under RCW 9.41.070;
 - (b) Destruction of firearms programs under RCW 9.41.098; and
 - (c) Such other sources as may be provided.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-010 Scope of chapter. This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the committee. Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), and chapter 286-40 WAC (Land and water conservation fund program).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-020 Application form. (1) All (~~applications~~) grant requests must be completed and submitted in the format prescribed by the committee unless otherwise allowed by the director.

(2) If the director determines that the applicant is eligible to apply for federal funds administered by the committee, the applicant must execute the forms necessary for that purpose.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-030 Application review. (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the (~~participation~~) manuals.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-040 Applications (~~and~~), plans, and matching resources—Deadlines. (1) Applications. To allow time for review, all applications must be submitted at least four calendar months prior to the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least (~~thirty days~~) one calendar month before this (~~same~~) meeting.

(2) Plans. For purposes of project evaluation, all nonhighway (~~road~~) and off-road vehicle program, park, recreation, or habitat plans required for participation in committee grant programs must be complete and on file with the committee at least (~~ninety days~~) three calendar months before the funding meeting at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to five years.

(3) Matches. To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) Waivers. Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may include:

- (a) When the applicant started the application/planning process;
- (b) What progress has been made;
- (c) When final plan adoption will occur;

(d) The cause of the delay (procedural or content related, etc.);

(e) Impact on the committee's evaluation process;

(f) Equity to other applicants; and

(g) Such other information as may be relevant.

NEW SECTION

WAC 286-13-045 Eligible matching resources. (1) Applicant resources used to match committee funds may include: Cash, local impact/mitigation fees, certain federal funds, the value of privately owned donated real estate, equipment, equipment use, materials, labor, or any combination thereof.

(2) Local agencies may match with state funds so long as the state funds are not administered by the committee.

(3) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.

(4) State agency projects may be assisted by one hundred percent funding from committee sources.

(5) The eligibility of federal funds to be used as a match is governed by federal requirements and thus may vary with individual program policies.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-060 Project agreement. For every funded project, an agreement must be executed as provided in this section.

(1) The project agreement shall be prepared by the director subsequent to approval of the project by the committee at a public meeting. The director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor, the parties are bound by the agreement's terms. The applicant may not proceed with the project until the agreement has been executed and the project start date listed in the agreement has arrived, unless specific authorization pursuant to WAC (~~286-13-080~~) 286-13-085 (1)(a) has been given by the director.

(2) If the project is approved by the committee to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through execution of a concurrent project agreement with the (~~Department of Interior or~~) applicable federal agency.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-070 Disbursement of funds. Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights and compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the (~~participa-~~

tion)) manual in effect at the time reimbursement is requested.

(2) Reimbursement level. The amount of reimbursement may never exceed the cash spent on the project.

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.

(4) Exceptions.

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. ~~((Until such time as the committee may receive direct appropriation authority,))~~ Prior to the 1995-1997 biennium (July 1, 1995,) state agencies ~~((are))~~ are required to submit voucher forms with the supporting documentation specified in the ~~((participation))~~ manual in effect at the time of completion of project acquisition, relocation or development.

(b) Direct payment. Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-080 Committee funds intended to supplement. State ~~((and))~~ grants through the committee ~~((is))~~ are intended to supplement the existing capacity of a sponsor; ~~((it is))~~ they are not intended to supplant programs, or to reimburse the cost of projects that would have been undertaken without state matching money. ~~((Therefore))~~ Furthermore, except as hereinafter provided, the committee will not approve the disbursement of funds for a project when otherwise reimbursable activities have been undertaken before a project agreement has been executed.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-085 Retroactive and increased costs. See WAC 286-04-010 for definition of terms for the following section.

(1) Retroactive land acquisition costs.

~~((a))~~ The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that ~~((an emergency))~~ a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

~~((b))~~ A sponsor will not lose committee approved assistance if it acquires committee approved property prior to any federal funding action on the sponsor's application for assistance if:

(i) ~~In writing, the sponsor requests and receives the director's permission to purchase; and~~

(ii) ~~The federal agency has notified the director that the state assisted purchase will not jeopardize the proposed federal funding;)~~

(2) Retroactive development costs. The only retroactive development costs ((are not)) eligible for reimbursement ((- However,)) consideration are preliminary expenses (e.g., engineering costs) ((contained in a development project may be eligible for reimbursement if specifically requested in the application)).

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's development project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-100 Nonconformance and repayment. Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and related ~~((participation))~~ manuals must be repaid, upon written request by the director, to the appropriate state account. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-110 Income. (1) Fees and charges. User or other types of fees may be charged in connection with land acquired or areas and facilities developed with committee grants if the fees and charges are commensurate with the value of services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved. Unless precluded by state law, the revenue from such fees and charges may only be used to offset the expense of operation and maintenance of the facility funded in whole or in part by committee grants or for accrual of capital for similar acquisition and/or development.

(2) Other income. Income that accrues to an area described in a project agreement from sources other than the

intended use, including income from land management practices, must derive from use which is consistent with, and complementary to, the intended use of the area as described in the project agreement.

(a) Gross nonintended income that accrues during the contracted reimbursement period established in the project agreement will be used to reduce the total cost of the project.

(b) Gross nonintended income that accrues subsequent to the ending reimbursement date identified in the project agreement must be used to offset operation and maintenance expenses of the facility funded in whole or in part by committee grants or for capital acquisition and/or development of a similar type unless precluded by state law.

(3) Commercial income. Commercial activity performed by a project sponsor on a committee assisted site or facility must be directly related to the recreational service provided. After paying any necessary costs associated with this activity, any net income must be used to assist in maintaining, renovating, operating, and/or developing the site as described in WAC 286-13-110 (1) and (2).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-13-115 Discrimination, preferences. ~~(Discrimination)~~ (1) Sponsors shall not discriminate against users of committee funded projects on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation.

(2) Sponsors may express a preference for users of committee funded projects on the basis of residence, including preferential reservation ~~(of)~~, membership ~~(systems and annual)~~, and/or permit systems ~~(-is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. Fee differences based on residence may not exceed twice that charged to residents)~~. Differential fees for use by nonresidents may be charged but must not exceed twice the fee imposed on residents.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-26-010 Scope of chapter. This chapter contains rules affecting the ~~(eligibility of agencies to share in committee administered)~~ nonhighway ~~(road)~~ and off-road vehicle ~~(funds)~~ activities grant program administered by the committee under chapter 46.09 RCW. Additional provisions are contained in ~~(chapter 46.09 RCW and)~~ "General grant assistance rules," chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-26-020 Definitions. For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"Nonhighway road" (NHR) as provided in RCW 46.09.020.

"Nonhighway vehicle" as provided in RCW 46.09.020.

"NOVA" means the committee's nonhighway ~~(road)~~ and off-road vehicle activities program described in chapter 46.09 RCW, and NHR and ORV ~~(participation)~~ manuals for the planning, acquisition, development and management of recreation areas and trails.

"NOVA advisory committee" means the panel of NHR recreationists, ~~(including representatives of)~~ organized ORV recreational groups, and agency representatives chosen to advise the director in the development of the state-wide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW. ~~(The NOVA advisory committee may also include representatives from various governmental entities or other interests as deemed appropriate by the director.)~~

"Off-road vehicle" (ORV) as provided in RCW 46.09.020.

"ORV trail" as provided in RCW 46.09.020, and including, competition sites for two, three, or four-wheel ORVs, and four-wheeled vehicles over forty inches width which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for NOVA funds.

"ORV use area" as provided in RCW 46.09.020.

AMENDATORY SECTION (Amending WSR 94-24-044, filed 12/2/94, effective 1/2/95)

WAC 286-26-080 Planning requirements. ~~(For purposes of project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for up to a five-year period. To be complete))~~ Plans completed in accordance with WAC 286-13-040(2), at minimum ~~(the plan)~~, must include:

(1) A statement of the applicant's long-range goals and objectives;

(2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;

(3) An analysis of need, that is, why actions are required;

(4) A description of the extent to which the public has been involved in development of the plan;

(5) A current capital improvement program of at least five years and/or a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;

(6) Evidence that this plan has been approved by the applicant's governing body (e.g., ranger district, city/county department, or regional manager/supervisor, etc., as appropriate).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-26-100 Development projects—Conversion to other uses. (1) Without prior approval of the committee, a facility developed with money granted by the committee, ~~((by))~~ to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development;

(iii) Will satisfy need(s) identified in the sponsor's NOVA plan (see WAC 286-26-080); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

(3) A master agreement signed by the parties shall control the provision of funds granted by the committee for facility developments to any federal agency sponsor.

NEW SECTION

WAC 286-26-110 Matching amounts and caps determined. Each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before program funding consideration.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 286-26-030 Eligibility.

AMENDATORY SECTION (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

WAC 286-27-010 Scope. This chapter contains rules affecting the ~~((eligibility of local and state agencies to share outdoor recreation and habitat conservation account moneys))~~ Washington wildlife and recreation grant program administered by the committee under ((the authority of)) RCW 43.98A.060(1) and 43.98A.070(5). Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC. These moneys are available through the ~~((interagency))~~ committee ~~((for outdoor recreation))~~ for projects in state parks, local parks, trails, water access, critical habitat, natural areas and urban wildlife habitat categories.

~~((Grants in aid for such projects are intended to supplement and expand the existing capacity of state and local agencies.))~~

AMENDATORY SECTION (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

WAC 286-27-040 Planning requirements, outdoor recreation account ~~((ORA))~~. At minimum, outdoor recreation plans completed in accordance with WAC 286-13-040(2) must be approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate) and must include:

~~((1) Local agencies. ((Before a project may be considered by the committee, local agency applicants must submit an outdoor recreation plan completed in accordance with committee guidelines. The plan must include:))~~

~~((a))~~ (a) ((An adopted comprehensive)) A plan for the agency's jurisdiction which includes park, recreation, trails, and open space elements;

~~((b))~~ (b) ((An adopted six-year)) A long-range plan for development of facilities (capital improvement program); and

~~((c))~~ (c) An inventory of public trails, open space, and outdoor recreation lands and facilities managed by the applicant agency.

~~((2) State agencies. ((Before a project may be considered by the committee, state agency applicants must submit the following:))~~

~~((a))~~ (a) ((An adopted six-year capital facilities or outdoor recreation plan which)) A capital improvement program, based on the office of financial management's prescribed planning period, that includes a statement of agency long-term acquisition, development and management goals, and

~~((b))~~ (b) An inventory of public trails, open space, and outdoor recreation lands and facilities managed by the applicant agency.

AMENDATORY SECTION (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

WAC 286-27-050 Planning requirements, habitat conservation account ~~((HCA))~~. At minimum, habitat conservation plans completed in accordance with WAC 286-13-040(2) must be approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate) and must include:

~~((1) Local agencies.~~

~~((a))~~ (a) ((After July 1, 1993: Before a project may be considered by the committee, local agency applicants must submit a habitat conservation plan completed in accordance with committee guidelines. The plan must include:

~~((i))~~ (i) An adopted comprehensive)) A plan for the agency's jurisdiction which includes natural areas, critical habitat and urban wildlife habitat elements,

~~((ii))~~ (ii) An adopted six-year)) (b) A long-range capital improvement program, and

~~((iii))~~ (c) An inventory of applicant managed lands with critical habitat, natural area and urban wildlife habitat values.

~~((b))~~ (b) Before July 1, 1993: Before a project may be considered by the committee, local agency applicants must submit the following habitat conservation plan element information:

~~((i))~~ (i) Certification of intent to complete the plan and

~~((ii))~~ (ii) A plan preparation progress report.))

~~((2) State agencies.~~

(a) ~~((Before the committee may consider a project, state agency applicants must submit a habitat conservation plan completed in accordance with committee guidelines. The plan must include:~~

~~(i) An adopted six year capital facilities or conservation plan which))~~ A capital improvement program, based on the office of financial management's prescribed planning period, that includes a statement of agency long-term acquisition, development and management goals, and

~~((iii))~~ (b) An inventory of applicant managed lands with critical habitat, natural area, and urban wildlife habitat values.

NEW SECTION

WAC 286-27-055 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least fifty years unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

NEW SECTION

WAC 286-27-065 Development projects—Conversion to other uses. (1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supple-

ment the existing capacity of sponsor. . ."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development;

(iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat conservation plan (see WAC 286-27-040 and 286-27-050); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

NEW SECTION

WAC 286-27-075 Matching amounts and caps determined. Consistent with RCW 43.98A.060(4) and 43.98A.070(4), each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before program funding consideration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 286-27-030	Definitions.
WAC 286-27-070	Participation manuals.
WAC 286-27-080	Funded projects.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-30-010 Scope. This chapter contains rules affecting the firearms and archery range ~~((account))~~ recreation grant program administered by the committee under RCW 77.12.720. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements. For acquisition projects, sponsors must execute an instrument or instruments ~~((which))~~ that contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property for at least ten years from the date of the committee's final reimbursement for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land for at least ten years from the date of the committee's final reimbursement, with the proviso that should use be discontinued or a noncommittee approved conversion occur, the sponsor shall pay back to the committee the entire grant amount. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not, within ten years, be converted to a use other than that for which funds were originally approved. The com-

mittee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least ten years from the date of the committee's final reimbursement unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 286-30-020 Eligibility.

**Chapter 286-35 WAC
((INITIATIVE 215))
BOATING FACILITIES PROGRAM**

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-030 Planning requirements—Local agencies. ~~((For purposes of local agency project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for up to a five-year period. To be complete))~~ Plans completed in accordance with WAC 286-13-040, at minimum ((the plan)), must include:

(1) A statement of the applicant's long-range goals and objectives;

(2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;

(3) An analysis of need, that is, why actions are required;

(4) A description of the extent to which the public has been involved in development of the plan;

(5) A current capital improvement program of at least five years, and a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;

(6) Evidence that this plan has been approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-040 Planning requirements—State ((agency requirements)) agencies. Before considering a state agency project for funding, that agency must submit to the committee a capital improvement program, based on the office of financial management's prescribed planning period. A ~~((long-term))~~ statement of applicant agency long-term outdoor recreation acquisition and development goals must be included.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-35-060 Matching requirements and caps determined. ~~((1) Local agencies-~~

~~(a) The committee will not approve local agency projects where the applicant's share is less than twenty-five percent of the total project cost, with the remaining share not exceeding seventy-five percent, composed of state funds, federal funds, or state and federal funds, regardless of federal source. Local agencies must provide written assurance at least thirty days before the funding meeting at which the project is to be considered for funding, that funds and/or resources are available for the required local share of the project. The director may authorize a period of less than thirty days.~~

~~(b) The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding.~~

~~(2) State agencies-~~

~~(a) The committee may approve one hundred percent funding from unrefunded marine fuel tax receipts for projects proposed by state agencies.~~

~~(b) If federal matching money, regardless of federal source, is available, the state agency may be assisted by committee funds so as to achieve one hundred percent funding.)~~ Each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before project funding consideration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 286-35-020 Eligibility.
- WAC 286-35-050 Apportionment of marine fuel tax receipts, state and local agencies.
- WAC 286-35-070 Projects eligible for funding.

PROPOSED

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-010 Scope. This chapter contains rules affecting the federal land and water conservation fund program administered by the committee. These funds are administered pursuant to the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 stat 897), and the *Land and Water Conservation Fund Grants Manual* (U.S. Department of the Interior, *National Park Service*). Under the terms of this program many federal requirements are imposed on both applicants and the committee over which the committee has no control. Most of these federal requirements are restated or clarified in the (~~participation~~) manuals. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-020 Funding and candidate selection. Funding for projects approved under this chapter is from the recreation resource account. Candidate project(s) (~~under this chapter~~) are selected by the director, and approved by the committee, from among those submitted (~~into the outdoor recreation account allotment~~) to the Washington wildlife and recreation program (chapter 286-27 WAC). Selection criteria includes:

- (1) Adherence to the outdoor recreation account planning requirements of WAC 286-27-040.
- (2) How well the project(s) has ranked in the evaluation;
- (3) How well the project(s) meets needs identified in the state-wide comprehensive outdoor recreation planning ~~and the general goals identified in WAC 286-04-030;~~
- (4) How well the projects meet the criteria in the Land and Water Conservation Fund Grants Manual;
- (5) An assessment of how quickly the project(s) will progress through planning and implementation stages.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

WAC 286-40-030 Matching requirements. (1) Local agencies. (~~(a)~~) The committee (~~will not~~) shall only approve local agency projects (~~where~~) when the applicant's share is (~~less than fifty percent of the total project cost, with the remaining share of up to, but not exceeding, fifty percent federal funds, or state and federal funds, regardless of federal source. Unless a shorter period is authorized, local agencies must provide written assurance at least thirty days before the funding meeting during which any project is to be considered for funding assistance, that funds and/or resources are available to provide the required local share of the project.~~

(b) ~~The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding)~~ at least equal to the committee amount awarded.

(2) State agencies. If federal matching money (~~(regardless of federal source,))~~ is available, (~~the~~) state agency sponsors may be assisted by committee funds (~~so as~~) to (~~achieve one hundred percent funding~~) meet federal matching requirements.

WSR 96-04-065

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 7, 1996, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-11-128.

Title of Rule: WAC 192-16-002 Employer reports, 192-16-024 Definition of a "public" agency, 192-16-051 Special coverage provisions for educational employees, and 192-16-052 Objective criteria used to define "academic year."

Purpose: To provide for consistency in the interpretation and application of the statutes to part-time faculty at community and technical colleges who apply for unemployment insurance benefits; to establish a definition of the term "public agency" as it relates to settlements received by former employees as a result of termination of their contracts.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010, and 50.12.070.

Statute Being Implemented: RCW 50.12.070 (WAC 192-16-002); RCW 50.04.320 (WAC 192-16-024); RCW 50.44.050 and 50.44.053 (WAC 192-16-051 and 192-16-052).

Summary: WAC 192-16-002 is amended to clarify the reporting of hours worked by part-time faculty at community colleges. WAC 192-16-024 is adopted to clarify that federal agencies are included within the term "public agency." WAC 192-16-051 and 192-16-052 are amended to comply with statutory language as amended by ESHB 1821, and to specify the objective criteria used to determine when summer quarter is part of the academic year.

Reasons Supporting Proposal: Current regulations are inconsistent with state law, as revised by ESHB 1821. Amendments are needed for purposes of clarity and consistency. WAC 192-16-002 is amended to clarify for colleges how the hours of part-time faculty are to be reported, which will simplify the processing of claims.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In response to the Court of Appeals decision in the case of *Evans vs. ESD*, the legislature amended the law (ESHB 1821) relating to eligibility for unemployment benefits of part-time faculty at community and technical colleges. The proposed amendments to WAC 192-16-051 are intended to clarify certain terms, such as "reasonable assurance," "contract," and "in the same capacity," contained

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in RCW 50.44.050 and 50.44.053. WAC 192-16-052 specifies the objective criteria the agency will use to determine if summer quarter is part of the academic year for a particular institution. These regulations will provide for consistency of interpretation by the agency, by the employers (community and technical colleges) and by those employees who file claims for UI benefits.

ESHB 1821 also amended RCW 50.04.320 to include in the definition of remuneration those settlements received for termination of an employment contract with a public agency. However, the term "public agency" was not defined, nor is it defined elsewhere in law. WAC 192-16-024 defines the term for purposes of clarity.

WAC 192-16-002 is amended to clarify the hours that employers should report for part-time faculty at community and technical colleges. In the case of *Shoreline Community College Dist. 7 vs. ESD*, the Court of Appeals found that the number of hours reported by the school should relate to the actual number of hours worked. The proposed amendment specifies a formula to be used by employers when reporting hours, but also includes a provision that employees found ineligible under this formula may provide documentation of additional hours worked.

Proposal Changes the Following Existing Rules: WAC 192-16-002(4) is amended to provide a method of reporting hours worked by part-time faculty at community and technical colleges. Previously, the section discussed reporting of hours worked by full-time salaried employees only. Other amendments to the regulation are of a housekeeping nature only, to improve readability. WAC 192-16-051 is amended to define terms in a manner that is consistent with the law as amended by ESHB 1821.

No small business economic impact statement has been prepared under chapter 19.85 RCW. All regulations contained within this filing pertain only to public agencies and community and technical colleges. No private businesses are impacted by the proposed amendments or new regulations.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The proposed regulations constitute "significant, legislative" rules because (a) they establish or alter the qualifications or standards for determining an individual's eligibility for unemployment benefits, and (b) they make significant amendments to a policy or regulatory program.

Hearing Location: 212 Maple Park Drive, 2nd Floor Conference Room, Olympia, WA, on March 14, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ramona Dahl, Affirmative Action, by March 11, 1996, TDD (360) 902-9569, or (360) 902-9536.

Submit Written Comments to: John Nemes, Rules Coordinator, OMR, P.O. Box 9046, Olympia, WA 98507-9046, FAX (360) 438-3226, by March 12, 1996.

Date of Intended Adoption: April 1, 1996.

February 2, 1996
Vernon E. Stoner
Commissioner

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

WAC 192-16-002 ((Interpretative regulations—))
Employer reports—Further defining hours worked—
RCW 50.12.070. ((RCW 50.12.070 requires employers to
report "the hours worked by each worker and such other
information as the commissioner may by regulation pre-
scribe," beginning July 1, 1977. In order to further define
what)) This section defines the hours that should be included
on quarterly wage reports provided by employers to the
department. ((the commissioner accordingly prescribes as
follows:))

(1) Vacation pay. The ((employee)) employer will
report ((be credited for)) the actual number of hours an
employee is on leave with pay. Vacations without pay will
not count as hours worked. Cash payments in lieu of
vacations will not be counted as hours worked.

(2) Sick leave pay. ((Hours)) The employer will not
((be reported for)) report sick pay excluded under the
provisions of RCW 50.04.330(1). However, the employer
will report the number of hours of sick pay which is not
excluded under the provisions of RCW 50.04.330(1) ((shall
be reported as leave with pay and the number of hours
reported accordingly)).

(3) Overtime. The employer will report the number of
hours actually worked for which overtime pay or compensa-
tory time is provided, ((will be reported)) without regard to
the amount of compensation paid.

(4) Employees on salary. If a salaried employee works
((irregular)) a nonstandard week((s)), ((he or she shall be
reported for)) the employer will report the actual number of
hours worked.

(a) In the absence of reliable time figures, the employer
will report a full-time salaried employee ((will be reported))
for 40 hours worked for each week in which any of his or
her duties are performed.

(b) In the case of faculty members of community and
technical colleges, a teaching load of at least 15 credit hours
per week is considered full time. A teaching load of less
than 15 credit hours per week is considered part time.

(i) In the absence of reliable time figures for a part-time
salaried faculty member, the employer will report a number
that is equal to the proportion of a 35 hour week corre-
sponding to the proportion of credit hours taught per week
divided by 15. Example: An instructor teaches 12 credit
hours per week. 12 divided by 15 equals 80%. 35 hours
multiplied by 80% equals 28 hours, which is the number the
employer will report.

(ii) Any part-time salaried faculty member who does not
establish a valid claim because of this formula may provide
the department with documentation of hours worked which
exceeds the number reported by the employer.

(5) Commissioned employees. ((Employees compen-
sated by commission will be reported for)) An employer will
report the actual number of hours worked by employees paid
by commission. In the absence of reliable time figures, the
employer will report a full-time commissioned employee
((will be reported)) for 40 hours worked for each week in
which any of his or her duties were performed.

(6) Wages in lieu of notice. ((Employees)) When an
employee is paid wages in lieu of notice, the employer will

~~((be reported for))~~ report the actual number of hours for which the employee was compensated ~~((thereby))~~.

(7) **Severance pay.** Employers will not report additional hours for severance pay ~~((S))~~ since the payment is ~~((predicated))~~ based on past service ~~((, no additional hours are to be reported for severance pay))~~. Severance pay ~~((is compensation))~~ compensates an employee for the separation from the employment itself ~~((, as distinguished from))~~. This is different from wages in lieu of notice which compensates the employee for the amount of wages or salary he or she would have earned during the specified time period.

(8) **Payments in kind.** The employer will report the actual number of hours worked (or a reasonable estimate ~~((thereof))~~) for performing services which are compensated only by payment in kind ~~((shall be reported))~~.

(9) **Bonuses, tips and other gratuities.** An employer will not report additional hours for bonuses, tips or other gratuities ~~((F))~~ if such compensation is received during the course of performing regular compensated services for which hours are reported ~~((, no additional hours shall be reported for items in these categories))~~. However, the employer will report hours if the sole compensation for services performed ~~((are))~~ is from any of these items ~~((, hours shall be reported))~~.

(10) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, the total figure will be rounded ~~((off))~~ to the next higher number.

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.

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

NEW SECTION

WAC 192-16-024 Definition of a "public agency"—RCW 50.04.320 (4)(c). "Public agency" means a functional unit, political subdivision, or instrumentality administered wholly or in part by:

- (a) The federal government;
- (b) Any state or territory of the United States; or
- (c) Any county, city, or municipal branch of government, or the equivalent, in this or any other state.

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

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

WAC 192-16-051 ~~((Interpretive regulations—))~~ Special coverage provisions for educational employees—~~((Contract or reasonable assurance defined))~~ Definitions—RCW 50.44.050(1). (1) **"Contract"** means ~~((For the purposes of RCW 50.44.050(1), an individual has a contract to perform services in an instructional, research, or principal administrative capacity if there is a binding))~~ an obligation that is binding on ~~((the part of the))~~ an educational institu-

tion to provide ~~((such))~~ work and ~~((a binding obligation))~~ on ~~((the part of the))~~ an individual to perform ~~((such))~~ services.

(2) **"Reasonable assurance"** ~~((For the purposes of RCW 50.44.050(1), a reasonable assurance that an individual will perform services in an instructional, research, or principal administrative capacity))~~ requires ~~((that))~~ the educational institution to give an individual ~~((be given))~~ a bona fide notification of intent to assign him ~~((/))~~ or her work in ~~((any such))~~ an instructional, research, or principal administrative capacity. "Reasonable assurance" does not include an agreement that is contingent on enrollment, funding or program changes. If there is a disagreement regarding whether an individual has "reasonable assurance" of continued employment, the educational institution must provide the department with documentation that reasonable assurance exists.

(3) **"In such capacity" or "in the same capacity"** are equivalent to "under the same terms and conditions of employment" as defined by WAC 192-16-057.

NEW SECTION

WAC 192-16-052 Objective criteria used to define "academic year"—RCW 50.44.050(5). (1) **What is the legislative intent?** The legislature made specific findings and statements of legislative intent that:

(a) As a general matter with limited exceptions, employees of educational institutions expect to be employed for no more than a nine or ten month school year with a break between school years for the traditional summer break;

(b) For part-time faculty at two-year institutions of higher education, summer quarter may be expected to be a time of employment;

(c) With respect to services performed by part-time faculty at community and technical colleges, "academic year" means fall, winter, spring, and summer quarters unless, based upon objective criteria including enrollment and staffing, the quarter is not in fact, a part of the academic year for the particular institution; and

(d) RCW 50.44.050(5) was not intended to change the general rules used by this department prior to the *Evans vs. ESD 72 Wn.App. 862* (1994) decision regarding unemployment compensation for any other employees of educational institutions.

(2) **What objective criteria are used to determine whether summer quarter is part of the "academic year" of a particular institution with respect to services performed by part-time faculty?** The determination of whether a particular school meets this criteria will be made by this department based on enrollment and staffing data provided by the State Board for Community and Technical Colleges.

(3) **Which faculty are covered by this rule?** This rule applies only to part-time faculty at community and technical colleges. Full-time community college faculty, and employees of other educational institutions, are generally employed for no more than nine or ten months per year. Their eligibility for benefits during the summer is determined by the general rules used by this department prior to the *Evans* decision.

(4) **Is summer part of the academic year for a community or technical college?** (a) With respect to

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services performed by part-time faculty, the summer quarter is part of the academic year for a particular community or technical college if:

(i) Total enrollment during the summer quarter is more than one-third of the average enrollment for the preceding fall, winter, and spring quarters of the preceding two years for a particular institution; and

(ii) Total part-time faculty employed during the summer quarter is at least fifty percent of the average of the part-time faculty employment during the preceding fall, winter, and spring quarters during the preceding two years for a particular institution.

(b) When a summer quarter is part of the academic year for at least one community or technical college within a district, that quarter will be part of the academic year for all colleges within the district that are under the jurisdiction of the same board of trustees. A "district" is defined by RCW 28B.50.040.

WSR 96-04-066
PROPOSED RULES
HORSE RACING COMMISSION

[Filed February 7, 1996, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 94-23-014.

Title of Rule: Chapter 260-48 WAC, Mutuels.

Purpose: To bring into conformance with the nationally adopted model rules pertaining to parimutuel rules.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Changes to the mutuels chapter will conform to nationally adopted rules.

Reasons Supporting Proposal: Changes in technology and language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules governing parimutuel procedures and practices will be updated with current language reflecting effectiveness with regard to regulation and technology. Conform as to uniformity R [re]: Other racing jurisdictions which are adopting the nationally accepted model rules regarding mutuels.

Proposal Changes the Following Existing Rules: Repealing in entirety chapter 260-48 WAC, WAC 260-48-010 through 260-48-350, and replacing this chapter with new sections WAC 260-48-500 through 260-48-920.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes will not affect more than 20% or less than 10% of the population. A small business economic impact statement was not prepared.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Washington Horse Racing Commission Offices, 7912 Martin Way, Suite D, Olympia, WA 98506, on April 9, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Bruce Batson by mail/phone.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by April 8, 1996.

Date of Intended Adoption: April 9, 1996.

February 7, 1996

Bruce Batson

Executive Secretary

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 96-05 issue of the Register.

WSR 96-04-067
PROPOSED RULES
HORSE RACING COMMISSION

[Filed February 7, 1996, 9:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-053.

Title of Rule: Chapter 260-70 WAC, Controlled medication program, rules regarding the regulation of race track equine medication standards.

Purpose: To repeal outdated rules and regulations and replace with new sections reflecting new rules with regard to regulation and also to conform with the nationally accepted model rule standards in other racing jurisdictions.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Update regulations to conform with the nationally accepted model regulations as being adopted by racing jurisdictions throughout the country.

Reasons Supporting Proposal: To standardize the equine medication program throughout the industry.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bruce Batson, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amending the medication standards for Washington will bring into conformance with the nationally accepted model rules being implemented throughout the equine industry. These amendments will standardize the medication standards as accepted by other racing industry jurisdictions.

Proposal Changes the Following Existing Rules: The entire chapter 260-70 WAC, Controlled medication program, as existing will be repealed and replaced with chapter 260-70 WAC, Controlled medication program, beginning with the new section WAC 260-70-500 through 260-70-730.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes will not affect more than 20% or less than 10% of the population.

A small business economic impact statement was not prepared.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, on April 9, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Bruce Batson by mail/phone.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by April 8, 1996.

Date of Intended Adoption: April 9, 1996.

February 7, 1996
Bruce Batson
Executive Secretary

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 96-05 issue of the Register.

WSR 96-04-069
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Filed February 7, 1996, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-17-095.

Title of Rule: Commercial license buy-back.

Purpose: Implement federal buy-back program.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Implements 1996 funding for NEAP license buy-back.

Reasons Supporting Proposal: Disaster relief.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, 902-2927.

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

Rule is necessary because of federal law. Currently unavailable. The federal register notice will be based on our rules.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules implement federal funding of the Northwest Emergency Assistance Plan for purchases of licenses from fishers effected by El Nino and Endangered Species Act listing of salmon. The purchase will afford monetary relief and reduce fleet capacity. This will provide for economic well being of the industry. It is uncertain how many fishers will participate in the program, depending on which option is chosen, and the level of applicants.

Proposal Changes the Following Existing Rules: Amends 1995 version of rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules implement a federal program. See 59 Fed. Reg. 51422.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Auditorium, Office Building 2, 14th and Jefferson, Olympia, on March 18, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayres by March 8, 1996, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501, FAX (360) 902-2942, by March 15, 1996.

Date of Intended Adoption: March 22, 1996.

February 7, 1996
Judith Freeman
Deputy
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

WAC 220-95-013 ((1995)) 1996 Salmon disaster relief license buy-back program established—Fund allocation—Expiration. (1) The National Marine Fisheries Service has designated the department as the administrating agency for distribution of Northwest Emergency Assistance Plan funds to buy back salmon licenses from license holders who are affected by reductions in salmon fishing needed to conserve Columbia River threatened and endangered salmon stocks. The state of Washington in consultation with the National Marine Fisheries Service believes the program should be designed to purchase licenses from fisheries that are dependent on chinook and coho salmon and are affected by the Endangered Species Act. The department hereby designates this program as the ((1995)) 1996 salmon disaster relief license buy-back program (program).

(2) The rules provided for in this chapter implement the provisions of the Northwest Emergency Assistance Plan as published in the *Federal Register*, and appeals as to which fishery license holders may apply for relief and the maximum level of monetary relief offered are to be made to the National Marine Fisheries Service.

(3) The department allocates the available federal funding for the program to the following categories in the following amounts:

- (a) Salmon troll licenses and salmon delivery licenses ((~~\$1,700,000.00~~))
\$2,300,000.00
- (b) Willapa Harbor-Columbia River and Grays Harbor-Columbia River gill net licenses ((~~\$1,700,000.00~~))
\$2,300,000.00
- (c) Salmon charter licenses ((~~\$ 300,000.00~~))
\$ 400,000.00
- (d) Program administration ((~~\$ 300,000.00~~))
\$ 250,000.00

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Program administration funds that will not be used will be reallocated to license purchases.

(4) The program expires March 31, ~~((1996))~~ 1997, or upon the distribution of all available funds, whichever occurs first.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

WAC 220-95-018 Program eligibility. Only persons meeting the following criteria are eligible to participate in the program.

(1) The person participated in the coastal, Columbia River, Grays Harbor or Willapa Bay commercial salmon fisheries and had income derived from one of those fisheries in at least one year during the period 1986 through 1991 ~~((and has not participated nor will participate in a Northwest Emergency Assistance Plan jobs program));~~ and

(2) The person possessed or was eligible to possess one of the following Washington state salmon fishery licenses in ~~((1994))~~ 1995:

(a) Salmon troll license (RCW 75.28.110 (1)(f));

(b) Salmon delivery license (RCW 75.28.113);

(c) Salmon gill net—Grays Harbor-Columbia River (RCW 75.28.110 (1)(a));

(d) Salmon gill net—Willapa Bay-Columbia River (RCW 75.28.110 (1)(c));

(e) Salmon charter (RCW 75.28.095 (1)(b)); and

(3) The person incurred an uninsured loss computed under the federal plan requirements as follows: The maximum amount of uninsured loss under the program is the difference between the highest gross income derived from designated salmon fishing activity (including incidental catch provided that some salmon are included within the catch) during any calendar year 1986 through 1991 (the base year), less the sum of the least amount of gross income derived from salmon fishing activities during any calendar year from 1992 through 1994, plus any federal unemployment compensation received during that year, plus any federally funded training received during that year (the comparison year). The maximum amount payable under the program is 2.25 times the uninsured loss, but not to exceed \$100,000.00 to any individual for all payments received from the program. For purposes of calculating income, the license holder must and may only use income from salmon fisheries in the coastal waters of Washington, Oregon, and California, the waters of Grays Harbor and Willapa Bay, and the waters of the Columbia River.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

WAC 220-95-022 Program application.

Option 1

(1) A license holder may make only one offer per license during an offer period.

(2) An offer to sell a license must be made on department forms and must be received by the department's licensing division during the period 8:30 a.m., ~~((March 29))~~ April 22 through 4:30 p.m., ~~((May 12, 1995))~~ June 7, 1996.

(3) Income used in the calculation of offers that are accepted may not be used in the calculation of any other offer.

(4) The license holder may offer the license for any amount up to the maximum allowable under the program.

(5) An offer is not made unless a complete offer is received by the department. In order for an offer to be complete, the following must be received:

(a) A complete offer sheet, showing:

(i) The applicant's name, Social Security number, mailing address during the offer period and telephone number;

(ii) The license type and license number that is being offered;

(iii) The offer amount;

(iv) The base year income (1986-1991);

(v) The comparison year income (1992-1994, including federal unemployment funds and the amount of any federally funded training received);

(vi) The amount of uninsured loss.

(b) Supporting documents.

(i) For salmon troll, salmon delivery and gill net license fishing activity, the only acceptable supporting documents are official state fish receiving tickets, official state fish landing receipts, or computer generated landing lists that have been certified by a state agency or the Pacific States Marine Fisheries Commission to be true and correct copies. All landings count in calculation of base and comparison year incomes.

(ii) For salmon charter license fishing activity, acceptable supporting documents are trip tickets identifying the species targeted, the number of anglers, and the date of the trip or, if such tickets are unavailable, the department will accept a letter of endorsement from a charterboat association or charterboat booking office indicating salmon fishing was a major component of earnings, and, if such a letter is provided, will review the total income of the applicant for the base and comparison years.

(c) Copies of Internal Revenue Service returns for the base and comparison years are required from salmon charter license applicants who use income other than that shown on trip tickets and may be required for salmon troll, salmon delivery, and gill net license applicants claiming a percentage of income shown on fish tickets.

(d) A signed permission form that allows the department to receive copies of the applicant's Internal Revenue Service returns for the base and comparison years, and to receive landing information from the Pacific States Marine Fisheries Commission, and the states of Oregon and California.

(e) A signed statement certifying that all information provided is true and correct.

(f) Persons who submitted complete offers in the 1995 program need not resubmit supporting documents. Such persons must submit a complete offer sheet, but the offer amount may differ from the 1995 offer amount, provided that the offer amount may not exceed the maximum amount of uninsured loss.

Option 2

The department will purchase licenses from the pool of applicants for the 1995 program, beginning with the lowest offer of an unsuccessful 1995 applicant. The department

will purchase licenses until the remaining moneys are insufficient for the entire next offer amount. Offer acceptance will be as provided for in WAC 220-95-032.

Option 3

The department will purchase licenses beginning with the pool of applicants for the 1995 program. Licensees who offered licenses in the 1995 program, but were unsuccessful, will have opportunity to sell their licenses for the last price paid per gear group. This amount is:

<u>Salmon troll and delivery -</u>	<u>\$24,984</u>
<u>Salmon gill net -</u>	<u>\$38,000</u>
<u>Salmon charter -</u>	<u>\$21,300</u>

If any funds remain after purchase of licenses from the 1995 program applicants, 1996 program applications will be accepted as provided for in this section from persons who are eligible to participate as provided for in WAC 220-95-018. The department will purchase licenses until the remaining moneys are insufficient for the entire next offer amount. Offer acceptance will be as provided for in WAC 220-95-032.

Nonparticipation Option

It is unlawful for a person who has accepted payment for a commercial fishery license in the 1996 program to participate in the fishery or be on board a vessel participating in the fishery during the ensuing ten-year period (calendar years 1997 through 2006). This restriction applies as follows: Persons who sold either a salmon troll fishery license or salmon delivery license may not participate in either salmon troll fishing or delivery of salmon taken more than three miles offshore by vessels equipped with troll gear; persons who sold a Salmon Gill Net—Grays Harbor-Columbia River fishery license or a Salmon Gill Net—Willapa Bay-Columbia fishery license may not participate in either the Salmon Gill Net—Grays Harbor-Columbia River or the Salmon Gill Net—Willapa Bay-Columbia fisheries; persons who sold a salmon charter license may not participate in the salmon charter fishery. To "participate" means an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or to claim possession of a share of the catch or a share of the proceeds.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

WAC 220-95-032 Offer acceptance—Acknowledgment—Retirement of licenses. (1) Offers will be accepted in rank order, beginning with the lowest offer.

(2) The department will notify license holders that it has accepted a license offer by sending an acceptance and acknowledgment to the license holder by registered mail to the address provided on the offer sheet. The acknowledgment must be signed and returned to the department and must be received by the license division at or before 4:30 p.m. on (~~June 14, 1995~~) July 10, 1996. Any acknowledgment received after that date is void and the acceptance is withdrawn.

(3) If the license being offered has been issued for (~~1995~~) 1996, the department will tender the amount of the offer upon return of the license card.

(4) If the license being offered has not been issued for (~~1995~~) 1996, the department will tender the amount of the offer upon receipt of a valid acknowledgment.

**WSR 96-04-071
PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed February 7, 1996, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-02-045.

Title of Rule: WAC 180-51-050 High school credit—Definition.

Purpose: To change the effective date to September 1, 1997, as to when five quarter or three semester hours of college or university course work shall equal .75 high school credit.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.305.130.

Summary: The amendment delays the effective date an additional year as to when the conversion rate will change from 1.0 to .75 high school credit for five quarter or three semester hours of college or university course work.

Reasons Supporting Proposal: Provides additional time to work with legislature to secure impact aid funding for those school districts most adversely affected by student participation in the running start program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Delays effective date for change in high school credit conversion rate from September 1, 1996, to September 1, 1997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way, Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 6, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

February 7, 1996

Larry Davis
Executive Director

PROPOSED

AMENDATORY SECTION (Amending WSR 95-16-063, filed 7/27/95, effective 8/27/95)

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve high school programs. One hundred fifty hours of planned in-school instruction;

(2) College and university course work. At the college or university level, except for community college adult high school completion programs, five quarter or three semester hours shall equal .75 high school credit: *Provided*, That five quarter or three semester hours shall continue to equal one high school credit until September 1, (~~1996~~) 1997; and

(3) Community college adult high school completion program. Five quarter or three semester hours of community college work shall equal 1.0 high school credit for students in the community college high school completion program.

WSR 96-04-072

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 7, 1996, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-15-050.

Title of Rule: WAC 180-87-093 Failure to assure the transfer of student record information or student records.

Purpose: To implement new rules as required by ESSB 5885 (chapter 311, Laws of 1995).

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.225.330(3) (chapter 311, Laws of 1995).

Summary: Rules provide for the discipline of a principal or other certificated chief administrator who fails to assure compliance with RCW 28A.225.330.

Reasons Supporting Proposal: Rules required to implement state law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rules establish disciplinary action for the failure of a principal or chief school administrator to make a good faith effort to assure compliance with the transfer of student information and records.

Proposal Changes the Following Existing Rules: Adds a new section to the acts of unprofessional conduct contained in chapter 180-87 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way S.E., Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 6, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

February 7, 1996

Larry Davis

Executive Director

NEW SECTION

WAC 180-87-093 Failure to assure the transfer of student record information or student records. The failure of a principal or other certificated chief administrator of a public school building to make a good faith effort to assure compliance with RCW 28A.225.330 by establishing, distributing, and monitoring compliance with written procedures that are reasonably designed to implement the statute shall constitute an act of unprofessional conduct.

WSR 96-04-074

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 7, 1996, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-033, 95-19-035, and 95-17-090.

Title of Rule: WAC 180-85-025 Continuing education—Definition and 180-85-032 Continuing education credit hour—Definition—Internships.

Purpose: To define a continuing education credit hour as it applies to internships.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.415.025 (chapter 284, Laws of 1995).

Summary: Amendments clarify definition of continuing education credit hour for internships and correspond to chapter 180-83 WAC as mandated in RCW 28A.415.025.

Reasons Supporting Proposal: Amendments are necessary to provide for continuing education credit for those persons who participate in an internship with business, industry, or government.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Amendment to WAC 180-85-025 adds new subsection (3) providing for an additional component to the definition of "continuing education."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Olympia School District, Board Room, 1113 Legion Way S.E., Olympia, WA 98501, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by March 6, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by March 18, 1996.

Date of Intended Adoption: March 22, 1996.

February 7, 1996

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 94-01-104, filed 12/16/93, effective 1/16/94)

WAC 180-85-025 Continuing education—Definition. As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit awarded by a regionally accredited institution of higher education, pursuant to WAC 180-78-010(6).

(2) All continuing education credit hours awarded by a vocational-technical institute pursuant to WAC 180-85-030(3) and 180-85-083 and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 180-83 WAC.

NEW SECTION

WAC 180-85-032 Continuing education credit hour—Definition—Internships. Notwithstanding the provisions of WAC 180-85-030(6), for each forty clock hours of participation in an approved internship with a business, industry, or government agency under chapter 180-83 WAC, one continuing education credit hour shall be granted.

WSR 96-04-076

PROPOSED RULES

FOREST PRACTICES BOARD

[Filed February 7, 1996, 11:28 a.m.]

Continuance of WSR 95-24-093.

Preproposal statement of inquiry was filed as WSR 94-13-066.

Title of Rule: Amendment to forest practices rules, Title 222 WAC.

Purpose: The purpose of this proposed rule is to identify critical wildlife habitat (state) for the northern spotted owl and the marbled murrelet.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050.

Statute Being Implemented: Chapter 76.09 RCW.

Submit Written Comments to: Judith Holter, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, FAX (360) 902-1784, by March 1, 1996.

Date of Intended Adoption: May 22, 1996.

February 6, 1996

Jennifer M. Belcher

Commissioner of Public Lands

WSR 96-04-077

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 7, 1996, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-22-050.

Title of Rule: Gunshot wound reporting.

Purpose: To establish state-wide reporting of gunshot wounds by hospital emergency departments and coroners for purposes of monitoring, assessment, and development of firearm injury prevention strategies.

Statutory Authority for Adoption: RCW 43.70.545.

Statute Being Implemented: RCW 43.70.545.

Summary: The proposed rule partly implements RCW 43.70.545 relating to acts of violence. In this statute the legislature finds that increasing violence is a cause for great concern and that comprehensive data and analysis capabilities can contribute to our understanding of the problem and its causes. The Department of Health is directed to develop comprehensive rules for the collection and reporting of data relating to acts of violence. Firearm-related injuries are identified as a specific concern.

Reasons Supporting Proposal: Findings from a twelve-month firearm injury reporting pilot project indicate that firearm injury data can be collected in a cost-effective manner, and that regulated parties are willing and able to supply this information.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary LeMier, Mailstop 7832, Olympia, 98504-7832, (360) 586-5693.

Name of Proponent: Washington State Medical Association, private; and Washington State Board of Health and Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will establish state-wide reporting of gunshot wounds by hospital emergency departments and coroners. The proposed rule partly implements RCW 43.70.545 relating to acts of violence. In this statute the legislature finds that increasing violence is a cause for great concern and that comprehensive data and analysis capabilities can contribute to our understanding of the problem and its causes. It is our hope that a firearm injury reporting system will both stimulate useful prevention efforts by the public or by government, and that it will help in evaluating the effectiveness of these programs.

Proposal does not change existing rules. This is a new rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule because pilot rule making was conducted according to statutory and agency criteria.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. By attorney general opinion, the proposed rule is considered a "significant legislative rule" because it "adopts a new or makes significant amendments to a policy or regulatory program." The required analysis for significant rules has been prepared and is shown below.

Significant Rules Analysis

WAC No. WAC 246-100-218 (new section)
 Subject: Gunshot Wound Reporting
 Originating Program: Injury Prevention
 Contact Person: Mary LeMier
 Telephone No.: 586-5693

Goals and Objectives of the Statute that the Rule Implements: The proposed rule partly implements RCW 43.70.545 relating to acts of violence. In this statute the legislature finds that increasing violence in our society is a cause for great concern and that comprehensive data and analysis capabilities can contribute greatly to our understanding of crime and violence, and their causes. The Department of Health is directed to develop comprehensive rules for the collection and reporting of data relating to acts of violence. For purposes of this law, "acts of violence" are defined as self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. The dramatic increase in the use of firearms over the past decade is identified as a specific concern.

Firearms are a leading agent of injury death in Washington state, second only to motor vehicles. If current trends continue, firearm-related deaths will exceed motor vehicle deaths in the near future. Nonfatal firearm injuries are estimated to occur approximately 2-3 times as frequently as fatalities.

Alternatives to Rule Making and Consequences of Not Adopting the Rule: Statewide and community-specific information on gunshot wounds is needed to measure the magnitude of the gunshot injury problem in our state, help identify promising prevention strategies, and monitor our progress toward gunshot injury reduction. Two possible approaches for obtaining this information are (a) voluntary reporting and (b) mandatory reporting, established by rule. To meet state-wide health assessment requirements, the data obtained from this system must cover the entire state and must be ongoing to allow for analysis of trends.

Hospitals can supply data on a voluntary basis: However, because there is no state requirement for reporting, federal rules require that complex research agreements be negotiated with each participating hospital. The preparation and maintenance of these agreements is very costly both for the Department of Health and hospital staff. We anticipate that a state reporting requirement will eliminate the need for these agreements, yielding a state-wide savings of approximately 1200 staff hours per year.

It is important to note that the department currently has access to several sources of firearm injury data including death records, hospitalization records and police data. What

we do not have, however, is information on nonfatal firearm injuries treated and discharged from an emergency room setting, nor do we have capacity to collect and link medical and circumstance information available through different sources. We will gain this information and capacity by implementing the proposed reporting rule.

National data sources indicate that a significant number of firearm injuries are missed by relying on death and hospitalization records. This combined with the current limited capacity to link medical and circumstance information contributes to a distorted understanding of our firearm injury problem which greatly impairs our ability to develop effective prevention strategies.

Cost/Benefit Analysis of Rule: The total annual cost of this rule is estimated at \$117,000, including costs to the Department of Health and regulated parties. The proposed rule has been piloted in twenty-seven hospitals and six coroner/medical examiner offices in King, Pierce, Yakima, Spokane, Benton and Franklin counties. Hospital staff can complete a reporting form in less than one minute. Coroners/medical examiners, who are asked to provide more detailed information, can complete their form in less than two minutes. Based on information contained in the Department of Health's 1994 hospital financial database, the cost of one staff minute in an emergency room is \$1.17, which multiplied by the expected number of case reports per year results in an annual cost to hospitals of approximately \$1,000 per year. We estimate that the cost to coroners/medical examiners is also approximately \$1,000. The cost to the Department of Health for operating this system is approximately \$115,000 per year. (The federal government, through the offices of the Centers for Disease Control, has agreed to pay approximately 70% of these costs throughout the remainder of the current state biennium. For additional information on the Department of Health-related costs see the fiscal impact statement.)

The data reported under this rule will be used to assess firearm injuries, identify promising prevention strategies and monitor progress toward firearm injury reduction. Information from the system will inform us about how, when and where firearm injuries are occurring. Depending on what we learn, a wide range of specific injury reduction strategies might be considered, such as promotion of improved safety devices on firearms, teen curfew laws, and/or reduced access to guns by teens and people determined to be a high risk for suicide.

Firearm injuries are expensive. Between 1986 and 1992, the mean charge for treating a gunshot wound at Harborview Hospital was \$18,774, inclusive of physician fees. This cost covers acute care only. We do not have figures on long term costs associated with gunshot wounds, though it is known that severe injuries often require extensive, long term care. The cost of these injuries is so high and the cost of collecting data so low, that any detectable reduction in death or injury attributable to the data will make the reporting system cost effective. We have determined that this rule complies with regulatory reform because the probable benefits exceed the probable costs.

Proposed Rule as the Least Burdensome Alternative: To meet state-wide health assessment requirements, the gunshot injury data obtained from this system must cover the entire state and must be ongoing to allow for analysis of

trends. As previously noted, hospitals can supply data on a voluntary basis. However, because there is no state requirement for reporting, federal rules require that complex research agreements be negotiated with each participating hospital. We anticipate that a state reporting requirement will eliminate the need for these agreements, yielding a state-wide savings of approximately 1200 staff hours per year, and making the proposed rule clearly the least burdensome approach to collecting the data. We have also reviewed the individual data items to be collected under this rule and determined that they represent the minimum data set required to meet the objectives.

Potential Conflict with Other Federal and State Requirements: There are currently no federal or state requirements related to gunshot wound reporting.

Fair Impact on Public and Private Entities: The proposed reporting rule equally impacts public and private entities.

Other Similar State or Federal Regulations and Statutes: There are currently no statutes or regulations mandating the reporting of gunshot wounds.

Hearing Location: Visitation Retreat and Cultural Center, 3200 S.W. Dash Point Road, Federal Way, WA 98023, on March 13, 1996, at 9:45 a.m.

Assistance for Persons with Disabilities: Contact Mary LeMier by March 6, 1996, (360) 586-5693.

Submit Written Comments to: Mary LeMier, Department of Health, Mailstop 7832, Olympia, WA 98504-7832, FAX (360) 753-9100, by March 6, 1996.

Date of Intended Adoption: March 14, 1996.

January 24, 1996
Bruce Miyahara
Secretary

NEW SECTION

WAC 246-100-218 Special condition—Gunshot wounds. (1) Pursuant to RCW 43.70.545 (relating to acts of violence) the state department of health finds that gunshot trauma is a significant public health problem which warrants mandatory reporting for purposes of monitoring, assessment, and development of prevention strategies.

(2) Definitions. For the purposes of this section, the following words and phrases have the following meanings:

(a) "Gunshot wound" means any injury caused by the projectile of any type gun including, but not limited to, rifles, shotguns, handguns, and bb/pellet guns.

(b) "Reportable gunshot wound" means a gunshot wound which results in death or an injury severe enough to warrant medical attention at a hospital emergency department in Washington state.

(3) Responsibilities of hospitals. Hospitals shall report to the state department of health all gunshot wounds treated in their emergency departments, regardless of whether the patient is subsequently hospitalized or discharged. Reports shall be made on reporting forms furnished by the state department of health, and submitted within thirty days following the date of treatment.

(4) Responsibilities of medical examiners and coroners. Coroners and medical examiners shall report all gunshot deaths which occur in their jurisdictions. Reports shall be

made on forms furnished by the state department of health, and submitted within sixty days following the date of death.

(5) Information to be reported. Information items to be reported include the following, provided they are routinely collected and available at the time of report preparation:

(a) Victim's name, gender, date of birth, race, and residence (city, state, zip code);

(b) Shooting date, time, and location;

(c) Type of gun used;

(d) Whether the shooting was done by the victim or another person;

(e) Whether the shooting was intentional or unintentional;

(f) Circumstance (e.g., argument, drive by shooting, other crime-related circumstance);

(g) Relationship between perpetrator and victim;

(h) Perpetrator's age, gender and race;

(i) Suspected drug or alcohol involvement;

(j) Anatomic location(s) of gunshot wound(s);

(k) Whether victim was released to home, admitted to hospital, transferred, or died.

(6) Record security and disclosure. Reports of gunshot wounds shall be treated as confidential records consistent with the requirements of the Health Care Information Act (chapter 70.02 RCW) and WAC 246-100-091.

WSR 96-04-078

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed February 7, 1996, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-24-060.

Title of Rule: Reporting of blood lead levels.

Purpose: Requires laboratories which perform blood lead tests on Washington residents, or any individual or organization which sends samples to an out-of-state laboratory for analysis to report the test results to the State Department of Health.

Statutory Authority for Adoption: RCW 43.20.050 Powers and duties of the state Board of Health.

Statute Being Implemented: RCW 43.20.020 (2)(b).

Summary: Rule reestablishes the reporting requirement. Lists information which must be provided to the Department of Health from laboratories which test blood specimens for lead.

Reasons Supporting Proposal: Allows the Department of Health to continue gathering data on blood lead levels in Washington residents. Allows both the Department of Health and the Department of Labor and Industries to continue assurance of adequate follow-up activities for individuals with elevated blood lead levels and preventative activities in communities and occupations where high blood lead levels have been observed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lillian Bensley, Olympia, 705-6048.

Name of Proponent: Departments of Health and Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule reestablishes blood lead reporting requirements for an additional thirty-six months. The reporting regulation allows for the systematic collection, analysis and use of laboratory blood lead tests to target efforts to prevent childhood and occupational lead poisoning. These surveillance activities would not be possible without WAC 246-100-042. The data are also used to assure appropriate clinical follow up on cases of lead poisoning.

As part of its surveillance activities, the Department of Health has maintained a childhood blood lead registry (CBLR). The registry allows the public health community to:

Identify children with elevated blood lead and monitor their clinical follow up; and

Conduct appropriate environmental investigations and educational activities which usually fall outside the aegis of the medical care provider community.

Continue eligibility for federal funding for outreach screening programs.

An additional three years of data would allow for a more complete picture of the nature and extent of lead poisoning in Washington. This would allow health authorities to identify important risk factors for childhood lead poisoning in the state, which would lead to the development of appropriate screenings policy and education information outreach programs.

As part of its surveillance activity the Safety and Health Assessment and Research for Prevention (SHARP) program within the Department of Labor and Industries has maintained an Occupational Lead Exposure Registry (OLER). This registry has enabled SHARP to:

Maintain a passive monitoring approach to measure the effectiveness of Labor and Industry's efforts to prevent occupational lead overexposure.

Use data on the OLER to characterize the nature and extent of occupational lead poisoning in Washington.

Target educational outreach efforts for workers, employers, medical personnel and others who remain unaware of the seriousness of lead overexposure.

Continue eligibility for federal funding to maintain an effective blood lead surveillance system.

The effect of the rule on the regulated parties:

Lead is just one of the many conditions laboratories must report to the Department of Health. This rule is an extension on an existing rule. It does not require laboratories to report additional information. The fiscal impact to regulated parties is minimal, the Department of Health estimates that it costs the majority of laboratories within Washington state \$270 per year to comply with reporting requirements.

Proposal Changes the Following Existing Rules: Proposal extends reporting requirements for an additional thirty-six months.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Department of Health has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

(1) The rule does not affect more than 10% of one industry or 20% of all industries. According to a survey carried out in 1995, only eleven laboratories located within Washington state report blood lead levels to the Department of Health. This represents 3% of the 382 businesses within the category of Medical and Dental Laboratories.

(2) Of the eleven reporting laboratories within Washington state only one qualifies as a small business (less than 50 employees). According to a survey carried out in 1995 by the Department of Health, this laboratory spends one hour per month on reporting requirements. The equation used to arrive at the estimated cost per year is:

Time spent on reporting requirements per month X personnel costs (including overhead) X 12 months = cost to laboratories to comply

$$1 \text{ hour} \times \$22.50 \times 12 = \$270.00$$

Laboratories which spend more than one hour per month on reporting requirements employ more than fifty employees.

(3) The thirty-six month extension for the reporting of blood lead levels to the Department of Health represents one additional reportable illness that laboratories are required to report. The original regulation drafted in 1993 was done with the cooperation of the affected laboratories and was designed to have minimal impact on laboratory operations. The proposed reauthorization of WAC 246-100-042 does not contain any substantive changes which would place a greater burden on laboratories.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter, or revoke a qualification or standard for (professional) licensure; and does not make significant amendments to a policy or regulatory program. This rule extends the expiration date for the reporting of blood lead levels to the Washington State Department of Health until May 14, 1999.

Hearing Location: Visitation Retreat and Cultural Center, 3200 S.W. Dash Point Road, Federal Way, WA 98023, on March 13, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Carrie McNamara by March 6, 1996, (360) 586-0399.

Submit Written Comments to: Washington State Department of Health, Office of Epi, Attn: Public Comments, P.O. Box 47812, Olympia, WA 98504-7812, FAX (360) 705-6043, by March 6, 1996.

Date of Intended Adoption: May 13, 1996.

February 7, 1996

Sylvia I. Beck

Executive Director

AMENDATORY SECTION (Amending Order 358, filed 4/28/93, effective 5/29/93)

WAC 246-100-042 Reporting of blood lead levels.

(1) Pursuant to WAC 246-100-041, the state health officer finds as follows:

(a) Adverse health effects resulting from elevated levels of lead in the blood has been acknowledged as a public health concern throughout the United States;

(b) Epidemiologic investigation based on reports of the results of blood level tests may contribute to the understanding of the condition, its prevalence within the state of

PROPOSED

Washington, and especially the extent to which the condition affects both children and those who may be exposed to lead in the work place;

(c) Rapid follow-up and appropriate management of potentially hazardous blood lead levels is necessary to assure safe public health, and assists in development of programs to prevent future lead over-exposure.

(2) **Definitions.** For the purposes of this section, the following words and phrases have the following meanings:

(a) "Blood lead level" means a measurement of lead content in whole blood.

(b) "Reporting organization" means any medical laboratory which performs blood lead analysis at a site within the state of Washington; or any individual or organization which sends blood specimens to an out-of-state medical laboratory for lead testing, including in-state organizations which receive blood specimens from other in-state individuals or organizations, and then send those specimens to an out-of-state testing laboratory.

(c) "Testing laboratory" means a medical laboratory which performs a blood lead analysis.

(3) **Reporting of blood lead levels.**

(a) A reporting organization shall report all blood lead levels to the department of health, including those which are within normal limits. The department of health shall send a copy of any report with a blood lead level equal to or greater than 40 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, to the local health department serving the jurisdiction in which the tested person resides.

(b) An individual or organization which sends blood specimens to an out-of-state laboratory may fulfill its reporting obligation by arranging for the testing laboratory to submit adequate reports.

(c) Reports shall be made in a format approved by the department.

(d) For blood lead levels equal to or greater than 40 micrograms per deciliter for adults, or equal to or greater than 20 micrograms per deciliter in children less than 15 years of age, the department must be notified by telephone, fax or mail within seven calendar days of the date test was performed, or if the test was performed by an out-of-state laboratory the date when the test result was received. Telephone reports must be supplemented by a written report submitted no later than the fifth business day of the next month after the telephone contact. In event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(e) For blood lead levels equal to or greater than 20 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, a report shall be made to the department no later than the fifth business day of the next month after the month in which the test was performed, or if the test was performed by an out-of-state laboratory the month during which the test result was received. In the event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(f) Information to be reported to the department for blood lead levels specified in parts (3)(d) and (3)(e) shall include the following:

(i) Name of the person tested;

(ii) Name of the reporting organization;

(iii) Name of the testing laboratory;

(iv) Date specimen received;

(v) Blood lead level of person tested;

(vi) Name of health care provider ordering test;

(vii) Address or telephone number of health care provider ordering test, if available;

(viii) Date of birth or the age of the person tested, if available;

(ix) Sex of person tested, if available;

(x) Race and ethnicity of person tested, if available;

(xi) Whether blood specimen is venous or capillary, if available;

(xii) Free erythrocyte or zinc protoporphyrin or zinc protoporphyrin/heme ratio, if performed, when available;

(xiii) Address and occupation of the person tested, or if a child the parents' occupation, if available;

(xiv) Name, address and telephone number of the employer, or if a child the parents' employer, if available;

(g) For all other blood lead levels, the reporting organization must either report the information specified in (3)(f) or submit a monthly summary report by the fifth day of the next month. The monthly summary must be categorized by the number of tests performed on specimens for children less than 15 years of age, the number of tests performed for individuals 15 years of age or older and the number of tests performed where patient's age is unknown. In each category the number of tests must be sorted by one of the following geographic indicators: patient county of residence, or patient postal zip code of residence, or provider county of practice, or provider postal zip code of practice.

(4) **Responsibilities of health care providers.** Upon request of a representative of the department of health or the department of labor and industries, a health care provider who has ordered a blood lead test shall provide the patient's address and telephone number to the department of health or the department of labor and industries, and when known the following information:

(a) Circumstances of lead exposure;

(b) Employer's name, address and telephone number, or, if a child, the same information on the employers of the parents;

(c) Occupation of person tested, or, if a child, occupation of parents;

(d) Type of industry of employer of person tested, or, if a child, type of industry of the employers of the parents;

(e) Reason for drawing lead level.

(5) **Confidentiality.**

(a) The medical laboratory report and all patient information provided by the health care provider shall be maintained in a confidential manner as with other disease reports and are not subject to public disclosure in any form under which the patient may be identified.

(b) The department of labor and industries shall have full access to information collected pursuant to this section, for the purposes of research, analysis, and follow-up of blood lead levels.

(6) This rule shall apply to tests performed for blood specimens drawn between May 15, (~~1993~~) 1996, and May 14, (~~1996~~) 1999.

WSR 96-04-080
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed February 7, 1996, 11:38 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 246-861-040 Applications for approval of continuing education program.

Purpose: Rule will allow the board to approve organizations that provide continuing education to the profession.

Statutory Authority for Adoption: RCW 18.64.005.

Summary: To allow the board the ability to approve CE providers other than ACPE. Will allow greater selection of CE providers.

Reasons Supporting Proposal: Will allow greater selection of CE providers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald Williams, Olympia, 3-6834.

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: Will allow the board to approve providers of continuing education and this will allow greater flexibility for members of the profession.

Proposal Changes the Following Existing Rules: Includes the board as approval authority for programs accepted for continuing education credit.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt under RCW 34.05.310(4) and does not require a small business economic income statement.

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. Exempt under RCW 34.05.310(4).

Hearing Location: Bellevue Hyatt Regency, 900 Bellevue Way N.E., Bellevue, WA 98004, on April 10, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Lisa Salmi, Program Manager, by April 3, 1996, TDD (360) 753-6834.

Submit Written Comments to: Pharmacy Board, P.O. Box 47863, Olympia, WA 98504-7863, FAX (360) 586-4359, by April 3, 1996.

Date of Intended Adoption: April 10, 1996.

January 24, 1996
 Donald H. Williams
 Executive Director

AMENDATORY SECTION (Amending WSR 95-08-019, filed 3/27/95, effective 4/27/95)

WAC 246-861-040 Applications for approval of continuing education program—Post-approval of continuing education program. (1) Applications for approval or post-approval of a continuing education program which is not an accredited program or provided by an approved

provider shall be made on the form provided for this purpose by the Washington state board of pharmacy in the law book.

(2) The provider shall submit an application form forty-five days prior to the date the program will be held.

(3) A pharmacist who attends a program that has not been preapproved according to this rule, must submit application for approval within twenty days following the program.

(4) All programs approved by the American Council on Pharmaceutical Education or the board, are accepted for continuing education credit and do not require that an individual provider approval be obtained in each case.

(5) The board of pharmacy may accept comparable continuing education units which have been approved by other boards of pharmacy.

WSR 96-04-081
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed February 7, 1996, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-12-005.

Title of Rule: Cancer reporting/data collection requirements.

Purpose: To bring the data [reporting] set established under WAC 246-430-030 into conformance with federal guidelines.

Statutory Authority for Adoption: RCW 70.54.270, 43.70.040.

Statute Being Implemented: RCW 70.54.240.

Summary: This rule adds three data items needed to accomplish the purpose stated above. Data items are: (1) Hispanic origin, (2) date of admission, (3) first course of treatment.

Reasons Supporting Proposal: To bring the data reporting set established under WAC 246-430-030 into conformance with that established under the aegis of the National Program of Cancer Registries (Public Law 102-515).

Name of Agency Personnel Responsible for Drafting: David L. Mesojednik, P.O. Box 47835, Olympia, WA 98504, (360) 586-0980; Implementation and Enforcement: Wendy L. Granoien, P.O. Box 47835, Olympia, WA 98504, (360) 586-7624.

Name of Proponent: Washington State Department of Health, governmental.

Rule is necessary because of federal law, Public Law 102-515.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule adds data items: (1) Hispanic origin, (2) date of admission, and (3) first course of treatment. These data items are required per Public Law 102-515 which established the National Program of Cancer Registries, but were not included in WAC 246-430-030 when the Washington State Cancer Registry was established. We anticipate there will be no additional burden imposed by this rule, as all reporting entities currently collect and report the three data items being added.

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Proposal Changes the Following Existing Rules: Adds three categories to WAC 246-430-030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No statement is required as the rule is solely for conformance with federal statute.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule does not subject a person to a penalty or a sanction, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Department of Health, 1102 S.E. Quince Street, First Floor Conference Room, Olympia, WA 98504, on March 13, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact David L. Mesojednik by March 6, 1996, TDD (360) 586-0980.

Submit Written Comments to: David L. Mesojednik, P.O. Box 47835, Olympia, WA 98504, FAX (360) 664-8779, by March 6, 1996.

Date of Intended Adoption: March 14, 1996.

February 6, 1996

Bruce A. Miyahara
Secretary

AMENDATORY SECTION (Amending Order 209, filed 12/10/91, effective 1/10/92)

WAC 246-430-030 Data collection requirements. (1) Contractors or their designees shall complete cancer abstracts for patients identified through hospitals, surgical centers, independent clinical laboratories, and outpatient radiation therapy centers;

(2) Cancer diagnosis or treatment facilities and independent clinical laboratories shall provide contractors with access to pathology and cytology reports and all medical records pertaining to identified cancer cases;

(3) Attending health care providers shall be responsible for completing cancer abstracts for patients diagnosed at facilities other than hospitals, surgical centers, independent clinical laboratories, and outpatient radiation therapy centers, unless the patient was hospitalized for additional cancer diagnosis or treatment services within one month of diagnosis;

(4) Contractors, contractor designees, or attending health care providers shall include the following information items in cancer abstracts, providing the information is obtainable from the patient's medical records:

(a) Patient information:

(i) Name;

(ii) Address at time of diagnosis;

(iii) Sex;

(iv) Race;

(v) Hispanic origin;

(vi) Birthdate;

~~((vi))~~ (vii) Age at time of diagnosis;

~~((vii))~~ (viii) Tobacco use;

~~((viii))~~ (ix) Social Security number;

~~((ix))~~ (x) State or country of birth; and

~~((x))~~ (xi) Usual occupation.

(b) Diagnostic information:

(i) Date of admission;

(ii) Primary site or sites;

~~((ii))~~ (iii) Histologic type or types, behavior and grade;

~~((iii))~~ (iv) Date of each diagnosis;
~~((iv))~~ (v) Method or methods of diagnostic confirmation;

~~((v))~~ (vi) Stage of disease at diagnosis using:

(A) SEER system; and

(B) AJCC system if maintained by the cancer diagnostic or treatment facility.

~~((vi))~~ (vii) Sequence; ~~((and))~~

~~((vii))~~ (viii) Laterality; and

(ix) First course of treatment.

(c) Other information:

(i) Name and address of cancer diagnosis or treatment facility providing information;

(ii) Medical record number;

(iii) Name and address of attending health care provider; and

(iv) Items required under contract between the National Cancer Institute's (NCI) SEER program (NCI-No. N01-CN-05230, available through the department's office of hospital and patient data) and the contractor, if the contractor is the Fred Hutchinson Cancer Research Center (FHCRC).

(5) The department may require submission of additional information from contractors as needed to assess data reliability and validity;

(6) Contractors shall prepare detailed data collection protocols for inclusion in the state cancer registry contract.

WSR 96-04-082

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 7, 1996, 11:42 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 246-50 WAC, Coordinated quality improvement program.

Purpose: To comply with chapter 267, Laws of 1995, Health Care Quality Assurance, which amends RCW 43.70.510.

Statutory Authority for Adoption: RCW 43.70.510.

Statute Being Implemented: Chapter 267, Laws of 1995 (RCW 43.70.510).

Summary: Deletion of language regarding "certified health plans" and additional language is added to include more entities. The Health Services Commission's name also changes.

Reasons Supporting Proposal: Amending rules to comply with legislative mandates.

Name of Agency Personnel Responsible for Drafting: Brook Lawson, Health Program Specialist, Olympia, Washington, 664-2196; Implementation and Enforcement: Patti Rathbun, Administrator, Olympia, Washington, 664-3223.

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 coordinated quality improvement program is a voluntary program which allows health care provider groups, professional societies, health service contractors, health

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maintenance organizations, health care institutions and medical facilities other than hospitals, to maintain a department approved program for the purpose of improving the quality of health care and identifying and preventing health care malpractice. Once department approved, the entity then receives some discovery limitations in which they can review the quality of care, identify areas which need improvement, and make appropriate changes to ensure the best quality of health care is given to the consumer. Additional language is added to the amended rules to further explain the discovery limitations.

Proposal Changes the Following Existing Rules: The proposal changes the existing rules mainly in a technical manner. Certified health plans have been deleted and other "entities" were added as groups allowed to apply for a department approved program. The former Health Services Commission has changed and is now the Health Care Policy Board. The Health Care Policy Board adopted the five principles which the Health Services Commission endorsed. There is also additional language added to further explain the discovery limitations for the department approved coordinated quality improvement programs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a voluntary program in which there are no additional economic impacts.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard for (profession) licensure; and does not make significant amendment to a policy or regulatory program. This rule is being changed in a technical manner only in which it will then comply with chapter 267, Laws of 1995.

Hearing Location: Department of Health, 1102 S.E. Quince Street, 1st Floor Conference Room, Olympia, WA 98504, on March 20, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Brook Lawson by March 13, 1996, TDD (360) 664-0064, or (360) 664-2196.

Submit Written Comments to: Brook Lawson, 1112 S.E. Quince Street, Olympia, WA 98504-7850, FAX (360) 664-0398, by March 13, 1996.

Date of Intended Adoption: March 21, 1996.

February 6, 1996
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 94-24-001, filed 11/23/94, effective 12/24/94)

WAC 246-50-001 Purpose and scope. (1) This chapter establishes the criteria and approval process for health care entities who choose to apply for a department of health approved coordinated quality improvement program pursuant to RCW 43.70.510. Coordinated quality improvement programs approved by the department are provided discovery limitations pursuant to RCW 43.70.510 (3) and (4). Information and documents created specifically for, and collected and maintained by an approved quality improvement committee are also exempt from disclosure under chapter 42.17 RCW.

(2) This chapter allows health care provider groups, professional societies or organizations, ~~((certified health plans))~~ health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction and regulation of any state agency or any subdivision thereof and health care institutions and medical facilities other than hospitals, to maintain a department-approved coordinated quality improvement program for the purpose of improving the quality of health care and identifying and preventing health care malpractice.

(3) Programs submitted for department approval should be consistent with the principles for the continuous improvement of the Washington state health care system published by the health ~~((services commission))~~ care policy board.

(4) This chapter does not apply to hospital quality improvement programs required by RCW 70.41.200.

AMENDATORY SECTION (Amending WSR 94-24-001, filed 11/23/94, effective 12/24/94)

WAC 246-50-010 Definitions. The words and phrases in this chapter have the following meanings unless the context clearly indicates otherwise.

(1) "Alternative program" means a coordinated quality improvement program determined by the department to be substantially equivalent to RCW 70.41.200(1).

(2) ~~((("Certified health plan" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an entity certified in accordance with RCW 48.43.020 through 48.43.120.~~

(3)) "Department" means the Washington state department of health.

~~((4))~~ (3) "Governing body" means:

(a) The person, persons or board responsible for the health care entity; or

(b) In the case of a provider group where no person, persons or board is in charge of all providers; the person, persons or group identified by the provider group to be responsible for the coordinated quality improvement program.

~~((5))~~ (4) "Health care entity" means a health care institution, medical facility, provider group, professional society or organization, ~~((or certified health plan))~~ health care service contractors, health maintenance organizations, health carriers approved pursuant to chapter 48.43 RCW, and any other person or entity providing health care coverage under chapter 48.42 RCW that is subject to the jurisdiction of any state agency or any subdivision thereof, authorized by RCW 43.70.510 to have a department-approved coordinated quality improvement program.

~~((6))~~ (5) "Health care institution" or "medical facility" includes the following:

(a) Adult residential rehabilitation centers regulated pursuant to chapter 71.12 RCW;

(b) Alcoholism treatment facilities regulated pursuant to chapters 71.12 and 70.96A RCW;

(c) Alcoholism hospitals regulated pursuant to chapters 71.12 and 70.96A RCW;

(d) Ambulance and aid services regulated pursuant to chapter 18.73 RCW;

(e) Boarding homes regulated pursuant to chapter 18.20 RCW;

(f) Childbirth centers regulated pursuant to chapter 18.46 RCW;

(g) Community mental health centers regulated pursuant to chapter 71.05 or 71.24 RCW;

(h) Eye banks regulated pursuant to RCW 68.50.630;

(i) Home health agencies regulated pursuant to chapter 70.127 RCW;

(j) Hospice care centers regulated pursuant to chapter 70.41 RCW;

(k) Hospice agencies regulated pursuant to chapter 70.127 RCW;

(l) Medical test sites regulated pursuant to chapter 70.42 RCW;

(m) Nursing homes regulated pursuant to chapter 18.51 RCW;

(n) Pharmacies regulated pursuant to chapter 18.64 RCW;

(o) Private psychiatric hospitals regulated pursuant to chapter 71.12 RCW;

(p) Residential treatment facilities for psychiatrically impaired children and youth regulated pursuant to chapter 71.12 RCW;

(q) Rural health facilities regulated pursuant to chapter 70.175 RCW;

(r) Facilities owned and operated by a political subdivision or instrumentality of the state, including, but not limited to:

(i) Public health departments;

(ii) Fire districts and departments;

(iii) Soldiers' and veterans' homes;

(iv) State mental health institutions;

(v) Health clinics operated by educational institutions;

(vi) Department of corrections health care facilities;

(vii) County jail health clinics; and

(viii) County drug and alcohol treatment facilities;

(s) Facilities required by federal law and implementing regulations, including, but not limited to:

(i) Native American health facilities; and

(ii) Veterans' affairs health services; and

(t) Other facilities determined by the department to be within the parameters of the definition of "health care facility" in RCW 43.72.010.

~~((7))~~ (6) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW to practice health or health related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of the employee's or agent's employment performing health care or auxiliary services.

~~((8))~~ (7) "Health care provider group" or "provider group" means an organized body of ten or more providers.

~~((9))~~ (8) "Negative health care outcome" means a patient death or impairment of bodily function other than those related to the natural course of illness, disease or proper treatment in accordance with generally accepted health care standards.

~~((10))~~ (9) "Professional society or organization" means a group of health care professionals, including, but not limited to, state or local health care professional associations.

~~((11))~~ (10) "Program" means coordinated quality improvement program pursuant to RCW 43.70.510.

WSR 96-04-083

PROPOSED RULES

COMMISSION ON JUDICIAL CONDUCT

[Filed February 7, 1996, 11:44 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 292-06 WAC, Procedural rules.

Purpose: To adopt and clarify procedures authorized by chapter 2.64 RCW and Article IV, Section 31 of State Constitution.

Statutory Authority for Adoption: Article IV, Section 31 of State Constitution.

Statute Being Implemented: Chapter 2.64 RCW and Article IV, Section 31 of State Constitution.

Summary: Chapter 292-06 WAC establishes procedures for filing, processing, investigating, and determining complaints filed pursuant to Article IV, Section 31 of the State Constitution.

Reasons Supporting Proposal: The commission is directed to provide for rules of procedure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New rules would update and clarify procedures to be used by the commission.

Proposal Changes the Following Existing Rules: The existing procedural rules would be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required for this proposal by chapter 19.85 RCW. The rules are procedural in nature.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are procedural rules.

Hearing Location: Sea-Tac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, on April 5, 1996, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan, TDD (360) 753-4585.

Submit Written Comments to: Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, FAX (360) 586-2918, by March 29, 1996.

Date of Intended Adoption: April 5, 1996.

February 7, 1996

David Akana

Executive Director

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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 96-05 issue of the Register.

**WSR 96-04-084
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed February 7, 1996, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-013.

Title of Rule: Chapter 388-110 WAC, Contracted residential care services: Assisted living, enhanced adult residential care, and adult residential care.

Purpose: To establish in rule, contract requirements for the above listed services which are provided it [to] state funded residents in licensed boarding homes.

Statutory Authority for Adoption: RCW 74.39A.010, 74.39A.020, 74.39A.060, 74.39A.070, 74.39A.080, 74.39A.170, 18.88A.210-[18.88A.]240.

Statute Being Implemented: RCW 74.39A.005-[74.39A.]080, 74.39A.170, 18.88A.210-[18.88A.]240.

Summary: With the passage of E2SHB 1908, the 1995 legislature amended the Department of Social and Health Services' authority to set standards for assisted living and mandated the department to develop rules governing other services provided under contract with the department by licensed boarding homes. The Department of Social and Health Services is directed to adopt rules that include the following: Service standards for assisted living, enhanced adult residential care, and adult residential care; enforcement standards for assisted living and enhanced adult residential care; training requirements for all providers and their staff; and minimum qualifications to assure providers with whom the department contracts are capable of providing services consistent with chapter 74.39A RCW.

Reasons Supporting Proposal: The rules should help support contractors in their efforts to improve quality and otherwise help assure that department clients have viable community options and receive quality services under these contracts.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Johnson and Stacy Winokur, P.O. Box 45600, Olympia, WA 98504, (360) 493-2626/407-0505.

Name of Proponent: Aging and Adult Services Administration; rules are being done in compliance with E2SHB 1908, governmental.

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

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

Proposal Changes the Following Existing Rules: The proposal repeals WAC 388-15-900 through 388-15-955, assisted living services, much of which is incorporated into these rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Reviser's note: The small business economic impact statement 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 96-05 issue of the Register.

A copy of the statement may be obtained by writing to Sherrill Mitchell, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 493-2631, or FAX (360) 438-7903.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is exempt from this provision.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on April 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by March 26, 1996, (360) 664-2954 or TDD (360) 664-2135.

Submit Written Comments to: Merry Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504-5800, Identify WAC Numbers, FAX (360) 664-0118, by April 2, 1996.

Date of Intended Adoption: April 10, 1996.

February 7, 1996

Sydney Doré

for Merry Kogut, Supervisor
Rules and Policies Assistance Unit

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 96-05 issue of the Register.

**WSR 96-04-085
PROPOSED RULES
GAMBLING COMMISSION**

[Filed February 7, 1996, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-14-020.

Title of Rule: WAC 230-12-020 Gambling receipts required by all bona fide charitable and nonprofit organizations—Exemptions.

Purpose: To reinstate the authorization for licensees located on the Point Roberts Peninsula to deposit gambling receipts in a British Columbia branch of a Canadian bank.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8), (14).

Summary: Reinstates previously deleted provision.

Reasons Supporting Proposal: Licensee petition.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation: Cally Cass-Healy, Lacey, (360) 438-7654, ext. 354; and Enforcement: Frank L. Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Point Roberts Volunteer Fire Department, Inc, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule generally sets forth requirements for charitable and nonprofit organizations to maintain gambling accounts in a Washington branch of a United States bank.

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The proposed amendment would reinstate a previously deleted exemption which allowed Gambling Commission licensees located on the Point Roberts Peninsula to deposit gambling receipts in a British Columbia branch of a Canadian bank.

Proposal Changes the Following Existing Rules: Reinstates previously deleted portion of the rule which allowed Gambling Commission licensees located on the Washington portion of the Point Roberts Peninsula to maintain gambling accounts in a British Columbia branch of a Canadian bank.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amendment does not affect more than ten percent of bingo licensees. Amendment will also reduce potential transaction costs if the licensees were required to change banks.

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: The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, on April 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by April 9, 1996, TDD (360) 438-7638, or (360) 438-7654.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by April 9, 1996.

Date of Intended Adoption: April 12, 1996.

February 7, 1996

Michael Aoki-Kramer
Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 95-19-069, filed 9/18/95, effective 1/1/96)

WAC 230-12-020 Gambling receipts deposit required by all bona fide charitable and nonprofit organizations—Exemptions. Licensed bona fide charitable or nonprofit organizations shall protect all funds generated from gambling activities and keep such separate and apart from the licensee's general funds. Funds shall be controlled as follows:

(1) Each licensee shall keep a separate account in a recognized Washington state depository for purposes of depositing gambling receipts: *Provided, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in a British Columbia branch of a Canadian bank.* Licensees are not limited to a single gambling receipts account as long as a minimum of one separate account is maintained;

(2) Only receipts from gambling activities shall be deposited into the gambling receipts account: *Provided, That a licensee may deposit receipts from nongambling activities, operated in conjunction with bingo games, into the gambling receipts account if such receipts are supported by detailed receipting records and all other requirements of this section are followed;*

(3) No expenditures, other than for prizes, shall be made from the receipts of any licensed gambling activity until such receipts have first been deposited in the gambling receipts

account: *Provided, That bingo receipts may be withheld from deposits for jar, pig, or other similar special game prizes if:*

(i) The total of all such prize funds does not accumulate to exceed two hundred dollars;

(ii) The amount withheld each session is entered in the bingo daily record; and

(iii) A reconciliation of the special game fund is made of the bingo daily record;

(4) All net gambling receipts from the operation of bingo which are being held pending disbursement shall be deposited in the licensee's gambling receipts account not later than the second banking day following receipt thereof;

(5) All net gambling receipts from the operation of card rooms, raffles (Class E and above), and amusement games (Class D and above) shall be deposited in the licensee's gambling receipts account at least once each week;

(6) Funds received from commercial amusement game operators that relate to the operation of amusement games on their premises shall be deposited in the licensee's gambling receipts account no later than the second banking day following receipt;

(7) Net gambling receipts from the operation of each punchboard and pull tab series, including cost recovery for merchandise prizes awarded, shall be deposited in the licensee's gambling receipts account no later than two banking days after a board or series is removed from play. The Washington state identification number assigned to the punchboard or pull tab series and the amount of net gambling receipts shall be recorded on the deposit slip/receipt each time a deposit is made: *Provided, That licensees may record the Washington state identification stamp numbers and the net gambling receipts on a separate record if the record is identified with the bank validation number and maintained with the deposit slip/receipt;*

(8) All deposits of net gambling receipts from each activity shall be made separately from all other deposits, and the validated deposit receipt shall be kept as a part of the records required by Title 230 WAC. Deposit receipts are a part of the applicable daily or monthly records and shall be available for inspection by commission representatives; and

(9) Bona fide charitable or nonprofit organizations that conduct only one or more of the following activities and do not possess any other licenses issued by the gambling commission are exempt from this rule:

(a) Raffles under the provisions of RCW 9.46.0315;

(b) Bingo, raffles, or amusement games under the provisions of RCW 9.46.0321;

(c) Class A, B, or C bingo game;

(d) Class A, B, C, or D raffle; or

(e) Class A, B or C amusement game.

(10) Bona fide charitable or nonprofit organizations that conduct only fund-raising events or membership raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but must meet the following conditions of deposit:

(a) No expenditures other than for prizes shall be made until such receipts have first been deposited in the licensee's bank account;

(b) All net gambling receipts shall be deposited within two banking days following receipt thereof; and

(c) The validated deposit receipt shall be kept with the licensee's gambling records.

WSR 96-04-086

PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Filed February 7, 1996, 11:57 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Medicare supplemental insurance.

Purpose: The purpose of these amendments is to keep up with federal changes to the regulation of Medicare supplemental insurance.

Other Identifying Information: Insurance Commissioner Matter No. 96-2.

Statutory Authority for Adoption: RCW 48.02.060, 48.66.041, and 48.66.165.

Statute Being Implemented: Chapter 48.66 RCW.

Summary: Medicare supplement insurance is regulated by the state based on minimum standards prescribed by federal law. These changes reflect changes to the minimum standards of the NAIC Model Medicare Supplement Act and regulation, adopted as required by federal law at 42 U.S.C. section 1395ss (a) and (b). In addition, disclosure forms dictated by federal law (Public Law 103-432, section 171 (m)(2)) will be adopted.

Reasons Supporting Proposal: Without these changes, Medicare supplement insurance policies may not be sold in Washington after April 28, 1996, except as directly regulated by the Federal Department of Health and Human Services/Health Care Financing Administration (DHHS/HCFA).

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, Olympia, (360) 586-3574; Implementation and Enforcement: Patrick Musick/Greg Scully, Olympia, (360) 664-2093 or (360) 407-0197.

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

Rule is necessary because of federal law, 42 U.S.C. section 1395ss (a), (b), and (c) and Public Law 103-432, section 171 (m)(2).

Explanation of Rule, its Purpose, and Anticipated Effects: Medicare supplement insurance is regulated by the state based on minimum standards prescribed by federal law. These changes reflect changes to federal law at 42 U.S.C. section 1395ss (a) and (b). In addition, disclosure forms dictated by federal law will be adopted. Without these changes, Medicare supplement insurance policies may not be sold in Washington after April 28, 1996, except as directly regulated by the Federal Department of Health and Human Services/Health Care Financing Administration (DHHS/HCFA). The following sections will be amended: WAC 284-66-020, 284-66-063, 284-66-077, 284-66-110, 284-66-120, 284-66-130, 284-66-142, and 284-66-203. A new section will be added to include the disclosure statements required to be given to persons who apply for insurance that may duplicate Medicare (WAC 284-66-135). 42 U.S.C. section 1395ss (a) and (b) requires DHHS/HCFA to certify that a state's Medicare supplement regulatory program meets the current standards of the Model Medicare Supplement Act

and regulation adopted by the National Association of Insurance Commissioners. These changes precisely mirror the changes required by DHHS/HCFA.

Proposal Changes the Following Existing Rules: Many of the proposed amendments are editing changes only. Significant changes include: WAC 284-66-077 open enrollment is available to a person who is 65 years old and enrolled in Medicare Part B, not just persons who first become eligible for Medicare at age 65; and WAC 284-66-203 changes the loss ration [ratio] refund calculation. WAC 284-66-135 sets forth the text of disclosure forms required to be used for purchases of insurance that may duplicate Medicare; there are ten such forms for use with different lines of insurance.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These amendments are required by federal law of all issuers of Medicare supplemental insurance. Any cost associated with these amendments is the result of federal law and not the result of adoption of these amendments.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These amendments are required by the Federal Department of Health and Human Services/Health Care Financing Administration. These amendments are exempt from the requirements of section 201, chapter 403, Laws of 1995. RCW 34.05.328 (5)(b)(iii) exempts, "Rules adopting... without material change federal statutes or regulations...." These amendments precisely mirror changes required by DHHS/HCFA. If you would like a copy of the federal requirements of DHHS/HCFA, please contact Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3790.

Hearing Location: General Administration Building, Lobby Auditorium, 11th and Columbia, Olympia, Washington 98504, on March 21, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Lori Villaflores by March 18, 1996, TDD (360) 586-0691, or (800) 883-6384.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, electronically at inscomr@aol.com, FAX (360) 586-3535, by March 18, 1996.

Date of Intended Adoption: March 27, 1996.

February 7, 1996

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-020 Applicability and scope. (1) Subject to subsection (2) of this section, except as provided by federal law, chapter 48.66 RCW, or as otherwise specifically provided by this chapter, this chapter shall apply to every group and individual policy of disability insurance and to every subscriber contract of an issuer (other than a policy issued pursuant to a contract under section 1876 (~~or section 1833~~)) of the Social Security Act [42 U.S.C. section 1395 et seq.] or an issued policy under a demonstration project (~~(authorized pursuant to amendments to the Social Security Act)~~ specified in 42 U.S.C. section 1395ss (g)(1)), which relates its benefits to Medicare, or which is advertised, marketed, or designed primarily as a supplement to reim-

bursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. All such policies or contracts are referred to in this chapter as "Medicare supplemental insurance" or "Medicare supplement insurance policy" or "Medicare supplement coverage."

(2)(a) Medicare supplement insurance policies delivered prior to January 1, 1989, which are renewable solely at the option of the insured by the timely payment of premium shall be subject to the provisions of this chapter except with respect to WAC 284-66-060, 284-66-200, 284-66-210, 284-66-310, and 284-66-350. To the extent that the provisions of this chapter do not apply to such policies, chapter 284-55 WAC shall apply.

(b) Medicare supplement insurance policies delivered between January 1, 1989, and December 31, 1989, and which are renewable solely at the option of the insured by the timely payment of premium shall be governed by this chapter except with respect to the requirements of WAC 284-66-210 and 284-66-350.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-063 Benefit standards for policies or certificates issued or delivered on or after July 1, 1992. Only Medicare supplement policies or certificates meeting the requirements of this chapter may be delivered or issued for delivery in this state on or after July 1, 1992. After that date, no policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(b) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(c) Each Medicare supplement policy shall be guaranteed renewable and:

(i) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(ii) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(iii) If the Medicare supplement policy is terminated by the group policy holder and is not replaced as provided under (c)(v) of this subsection, the issuer shall offer certificateholders an individual Medicare supplement policy

which (at the option of the certificateholder) provides for continuation of the benefits contained in the group policy, or provides for such benefits as otherwise meets the requirements of this subsection.

(iv) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall offer the certificateholder the conversion opportunity described in (c)(iii) of this subsection, or at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(v) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the ~~((succeeding))~~ issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(d) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(e)(i) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within ninety days after the date the individual becomes entitled to such assistance. ~~((Upon receipt of timely notice, the issuer shall return to the policyholder or certificateholder that portion of the premium attributable to the period of Medicaid eligibility, subject to adjustment for paid claims.))~~

(ii) If such suspension occurs and if the policyholder or certificateholder loses entitlement to such medical assistance, such policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of such entitlement if the policyholder or certificateholder provides notice of loss of such entitlement within ninety days after the date of such loss and pays the premium attributable to the period, effective as of the date of termination of such entitlement.

(iii) Reinstitution of such coverages;

(A) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(B) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of such suspension; and

(C) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(2) Standards for basic ("core") benefits common to all benefit plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic "core" package, but not in lieu thereof.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packaged red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

(3) Standards for additional benefits. The following additional benefits shall be included in Medicare supplement benefit plans "B" through "J" only as provided by WAC 284-66-066.

(a) Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(b) Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A;

(c) Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty percent of the Medicare Part B excess charges: Coverage for eighty percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(e) One hundred percent of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(f) Basic outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible, to a maximum of one thousand two hundred fifty dollars in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(g) Extended outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible to a maximum of three thousand dollars in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(h) Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars, and a lifetime maximum benefit of fifty thousand dollars. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: Coverage for the following preventive health services:

(i) An annual clinical preventive medical history and physical examination that may include tests and services from (i)(ii) of this subsection and patient education to address preventive health care measures.

(ii) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) Fecal occult blood test and/or digital rectal examination;

(B) Mammogram;

(C) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(D) Pure tone (air only) hearing screening test, administered or ordered by a physician;

(E) Serum cholesterol screening (every five years);

(F) Thyroid function test;

(G) Diabetes screening.

(iii) Influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every ten years).

(iv) Any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to one hundred percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in *American Medical Association Current Procedural Terminology (AMA CPT)* codes, to a maximum of one hundred twenty dollars annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(j) At-home recovery benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

(i) For purposes of this benefit, the following definitions shall apply:

(A) "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(B) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(C) "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(D) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a twenty-four hour period of services provided by a care provider is one visit.

(ii) Coverage requirements and limitations.

(A) At-home recovery services provided must be primarily services which assist in activities of daily living.

(B) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(C) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment.

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars per visit.

(III) One thousand six hundred dollars per calendar year.

(IV) Seven visits in any one week.

(V) Care furnished on a visiting basis in the insured's home.

(VI) Services provided by a care provider as defined in this section.

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(VIII) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight weeks after the service date of the last Medicare approved home health care visit.

(iii) Coverage is excluded for: Home care visits paid for by Medicare or other government programs; and care provided by family members, unpaid volunteers, or providers who are not care providers.

(k) New or innovative benefits: An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-077 Open enrollment. (1) No issuer shall deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant ~~((where)) in the case of an application for ((such)) a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual ((who)) is sixty-five years of age or older((-first)) and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.~~

(2) Except as provided in WAC 284-66-170, subsection (1) of this section shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the six months before ((#)) the coverage became effective.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-110 Buyer's guide. (1) Issuers of disability insurance policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis ~~((, other than incidentally,)) to persons eligible for Medicare ((by reason of age)) must provide to all such applicants ((a Medicare supplement "Buyer's Guide." ((2) The "Buyer's Guide" required to be provided is)) the pamphlet "Guide to Health Insurance for People with Medicare," developed jointly by the National Association of Insurance Commissioners and Health Care Financing Administration, or any reproduction or official revision of that pamphlet. The guide shall be printed in a style and with a type character that is easily read by an average person eligible for Medicare supplement insurance and in no case may the type size be smaller than 12-point type. (Specimen copies may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.)~~

~~((3)) (2) Delivery of the ((("Buyer's Guide" must)) guide shall be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement insurance policies or certificates.~~

~~((4)) (3) Except in the case of a direct response issuers, delivery of the ((("Buyer's Guide" must)) guide shall be made to the applicant at the time of application and acknowledgement of receipt of the ((("Buyer's Guide" must)) guide shall be obtained by the issuer. Direct response issuers ((must)) shall deliver the ((("Buyer's Guide")) guide to the applicant upon request but not later than at the time the policy is delivered.~~

(4) The guide shall be reproduced in a form that is substantially identical in language, format, type size, type proportional spacing, bold character, and line spacing to the guide developed jointly by the National Association of

Insurance Commissioners and the Health Care Financing Administration.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-120 Notice regarding policies which are not Medicare supplement policies. Any disability insurance policy or certificate (other than a Medicare supplement policy or certificate or a policy issued pursuant to a contract under Section 1876 ~~((or 1833))~~ of the Social Security Act (42 U.S.C. Section 1395 et seq.), disability income protection policy ~~((basic or comprehensive or major medical expense policy;))~~ or other policy identified in RCW 48.66.020(1), whether issued on an individual or group basis, which policy purports to provide coverage to residents of this state eligible for Medicare ~~((by reason of age))~~, shall notify policyholders or certificate holders that the policy is not a Medicare supplement insurance policy or certificate. ~~((Such))~~ The notice shall be printed or attached to the first page of the outline of coverage or equivalent disclosure form, and shall be delivered to the policyholder or certificate holder. If no outline of coverage is delivered, the notice shall be attached to the first page of the policy or certificate delivered to insureds. Such notice shall be in no less than twelve point type and shall contain the following language: "This (policy, certificate or subscriber contract) is not a Medicare supplement (policy, certificate or subscriber contract). If you are eligible for Medicare, review the ~~((Medicare supplement Buyer's Guide))~~ "Guide to Health Insurance for People with Medicare" available from the company."

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-130 Requirements for application forms and replacement of Medicare supplement insurance coverage. (1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance or other disability policy or certificate in force or whether a Medicare supplement insurance policy or certificate is intended to replace any other policy or certificate of a health care service contractor, health maintenance organization, disability insurer, or fraternal benefit society presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements, may be used: *Provided, however,* That where the coverage is sold without an agent, the supplementary application shall be signed by the applicant.

[Statements]

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) If you are sixty-five or older, you may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

~~((3))~~ (4) The benefits and premiums under your Medicare supplement policy ~~((will))~~ can be suspended if requested during your entitlement to benefits under Medicaid for twenty-four months. You must request this suspension within ninety days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within ninety days of losing Medicaid eligibility.

~~((4))~~ (5) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a "Qualified Medicare Beneficiary" (QMB) and a "Specified Low-Income Medicare Beneficiary" (SLMB).

[Questions]

To the best of your knowledge.

(1) Do you have another Medicare supplement policy or certificate in force ~~((including health care service contract, health maintenance organization contract))~~?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplemental policy with this policy or certificate?

(2) Do you have any other health insurance ~~((policies))~~ coverages that provide benefits ((which)) similar to this Medicare supplement policy would duplicate?

(a) If so, with which company?

(b) What kind of policy?

(3) ~~((If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy [certificate]?)~~

~~((4))~~ Are you covered ~~((by Medicaid))~~ for medical assistance through the state Medicaid program:

(a) As a "Specified Low-Income Medicare Beneficiary" (SLMB)?

(b) As a "Qualified Medicare Beneficiary" (QMB)?

(c) For other Medicaid medical benefits?

(2) Agents shall list any other medical or health insurance policies sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five years which are no longer in force.

(3) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

(4) Upon determining that a sale will involve replacement of Medicare Supplement Coverage, an issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement insurance policy or certificate, a notice regarding replacement of Medicare supplement insurance coverage. One copy of such notice, signed by the applicant and the agent (except where the coverage is sold without an agent), shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the

issuance of the policy the notice regarding replacement of Medicare supplement insurance coverage.

(5) The notice required by subsection (4) of this section for an issuer, shall be provided in substantially the form set forth in WAC 284-66-142 in no smaller than ~~((ten))~~ twelve point type, and shall be filed with the commissioner prior to use in this state.

(6) The notice required by subsection (4) of this section for a direct response insurer shall be in substantially the form set forth in WAC 284-66-142 and shall be filed with the commissioner prior to use in this state.

(7) A true copy of the application for a Medicare supplement insurance policy issued by a health maintenance organization or health care service contractor for delivery to a resident of this state must be attached to or otherwise physically made a part of the policy when issued and delivered.

(8) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor or health maintenance organization may substitute appropriate terminology.

(9) Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

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.

NEW SECTION

WAC 284-66-135 Disclosure statements to be used with policies that are not Medicare supplement policies. Applications provided to persons eligible for Medicare for disability or other medical insurance policies or certificates, shall disclose the extent to which the policy duplicates Medicare. The disclosure shall be in the form provided by this section. The applicable disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

(1) Instructions for use of the disclosure statements for health insurance policies sold to Medicare beneficiaries that duplicate Medicare.

(a) Federal law, P.L. 103-432, prohibits the sale of a health insurance policy (the term "policy" or "policies" includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application.

(b) All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

(c) State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

(d) Property/casualty and life insurance policies are not considered health insurance.

(e) Disability income policies are not considered to provide benefits that duplicate Medicare.

(f) The federal law does not preempt state laws that are more stringent than the federal requirements.

(g) The federal law does not preempt existing state form filing requirements.

(2) Basic disclosure statement.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(3) Disclosure statement to be used with policies that provide benefits for specified limited services.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

PROPOSED

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(4) Disclosure statement to be used with policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physical services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(5) Disclosure statement to be used with policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health*

PROPOSED

Insurance for People with Medicare, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(6) Disclosure statement to be used with policies that provide benefits for both expenses incurred and fixed indemnity basis.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or service covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items & services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(7) Disclosure statement to be used with policies that provide benefits for both expenses incurred and fixed indemnity basis.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or service covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items & services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(8) Disclosure statement to be used with long-term care policies providing both nursing home and noninstitutional coverage.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This is long term care insurance that provides benefits for covered nursing home and home care services.

PROPOSED

- In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most long-term care expenses.

- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(10) Disclosure statement to be used with policies providing home care benefits only.

PROPOSED

Before You Buy This Insurance

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(9) Disclosure statement to be used with policies providing nursing home benefits only.

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered home care services.
- In some situations, Medicare will cover some health related services in your home and hospice care which may also be covered by this insurance.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most services in your home.

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

Before You Buy This Insurance

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered nursing home services.
- In some situations Medicare pays for short periods of skilled nursing home care and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most nursing home expenses.

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(11) Disclosure statement to be used with other health insurance policies not specifically identified in the previous statements.

Before You Buy This Insurance

THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.

This is not Medicare Supplement Insurance

PROPOSED

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- the benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-142 Form of replacement notice.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company name] Insurance Company. Your new policy will provide thirty days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. ~~((Terminate your present policy only))~~ If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other disability coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. ~~((The replacement of insurance involved in this transaction does not duplicate coverage.))~~ To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason(s) (check one):

Additional benefits.

No change in benefits, but lower premiums.

Fewer benefits and lower premiums.

Other. (please specify)

1. If you have had your current Medicare supplement policy less than six months, health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under original policy.
3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

.....
(Signature of Agent, Broker, or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

.....
(Applicant's Signature)

.....
(Date)

*Signature not required for direct response sales.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-203 Loss ratio and rating standards and refund or credit of premium. (1) Loss ratio and rating standards. For policies issued on or after July 1, 1992, and those policies specifically approved by the commissioner under WAC 284-66-063 prior to July 1, 1992:

(a) A Medicare supplement policy form or certificate form must be rated on an issue-age level premium basis or community rated basis, as described at WAC 284-66-243(6), in order to meet the standards of WAC 284-66-310.

(b) A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

(i) At least seventy-five percent of the aggregate amount of premiums earned in the case of group policies; or

(ii) At least sixty-five percent of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization or health care service contractor on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices.

(c) All filing of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(d) For purposes of applying subsection (1)(b) of this section and WAC 284-66-243 (3)(c) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

(e) For policies issued prior to July 1, 1992, expected claims in relation to premiums shall meet:

(i) The originally filed anticipated loss ratio when combined with the actual experience since inception;

(ii) The appropriate loss ratio requirement from WAC 284-66-203 (1)(b)(i) and (ii) when combined with actual experience beginning with July 1, 1992, to date; and

(iii) The appropriate loss ratio requirement from WAC 284-66-203 (1)(b)(i) and (ii) over the entire future period for which the rates are computed to provide coverage.

(2) Refund or credit calculation.

(a) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the reporting form contained in WAC 284-66-232 for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3) in year three or later, then a refund or credit calculation is required.

The refund calculation shall be done on a state-wide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded. This subsection applies only to annual experience reporting. Any revision of premium rates must be filed with and approved by the commissioner in accordance with WAC 284-66-243.

(c) For policies or certificates issued prior to July 1, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after the effective date of this section. The first such report shall be due by May 31, 1998.

(d) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. Such refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

(3) Annual filing of premium rates.

On or before May 31 of each calendar year, an issuer of standardized Medicare supplement policies and certificates issued in accordance with WAC 284-66-063, shall file its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner on the form provided at subsection (6) of this section. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. Such demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

(4) As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(a)(i) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

(ii) An issuer shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or certificate as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for such Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made

with respect to a policy at any time other than upon its renewal date or anniversary date.

(iii) If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by this section.

(b) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. Such riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(5) Public hearings.

(a) The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for policy form or certificate form if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for such reporting period. Public notice of such hearing shall be furnished in a manner deemed appropriate by the commissioner.

(b) This section does not in any way restrict a commissioner's statutory authority to approve or disapprove rates.

PROPOSED

(6) Annual Medicare supplement insurance reporting form:

Annual Filing of Premium Rates and Experience
To be filed on or before May 31 of each calendar year.

Experience from January 1 to December 31, of ___(year)___ reported by duration for all business from inception to December 31, 19 _____.

Company Name _____

Address _____

NAIC Group Code _____	NAIC Company Code _____	CIC Code _____
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Plan _____	Type _____	Form No. _____
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Premium Rates [Attach schedule]

Insurance is [check one] Group _____ or, Individual _____

Washington Experience. [Show all experience for the reported calendar year (separately for each duration).]

<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Claim Reserves</u>
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I hereby certify that I have supervised the preparation of this experience exhibit, that all durational information has been furnished, and to the best of my knowledge, the data is accurate and is in compliance with RCW 48.66.150 and WAC 284-66-203.

Signature of Officer

Date

Name and Title of Officer

Prepared by

Phone Number

Phone Number

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

PROPOSED

WSR 96-04-087
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed February 7, 1996, 11:59 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Description of the Insurance Commissioner's Office.

Purpose: To describe the organizational and operational structure of the Insurance Commissioner's Office and how to obtain information from the Insurance Commissioner.

Other Identifying Information: Insurance Commissioner Matter No. R 96-3.

Statutory Authority for Adoption: RCW 48.02.060, 34.05.220 (1)(b).

Statute Being Implemented: RCW 34.05.220 (1)(a) and (b).

Summary: Chapter 284-02 WAC provides interested persons with a description of the organization of the office and the methods whereby the public may obtain information and make submissions or requests of the Insurance Commissioner.

Reasons Supporting Proposal: These rules are required by the Administrative Procedure Act at RCW 34.05.220 (1)(b).

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, Olympia, Washington, (360) 586-3574; **Implementation and Enforcement:** Krishna Fells, Olympia, Washington, (360) 664-3785.

Name of Proponent: Insurance Commissioner Deborah Senn, government.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 284-02 WAC provides interested persons with a description of the organization of the office and the methods whereby the public may obtain information and make submissions or requests of the Insurance Commissioner. These rules are required by the Administrative Procedure Act at RCW 34.05.220 (1)(b).

Proposal Changes the Following Existing Rules: These amendments present a description of the current organization and course of operations of the Insurance Commissioner's Office. Commissioner Senn has reorganized some divisions. Many of the amendments are editing changes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required because the rules will impose no costs on businesses in an industry. These rules are required by the Administrative Procedure Act at RCW 34.05.220 (1)(b).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate only to the internal operations of the Insurance Commissioner's office and are descriptive only. The rules are required by the Administrative Procedure Act at RCW 34.05.220 (1)(b) and are exempt from RCW 34.05.328 (codification of section 201, chapter 403, Laws of 1995).

Hearing Location: Insurance Commissioner's Office, Insurance Building, 2nd Floor Conference Room, Olympia, Washington, on March 28, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Lori Villaflores by March 27, 1996, TDD (360) 586-0691, or (800) 883-6384.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, electronically at inscomr@aol.com, FAX (360) 586-3535, by March 27, 1996.

Date of Intended Adoption: April 3, 1996.

February 7, 1996

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-010 Authority of insurance commissioner. (1) **The office generally.** The position of insurance commissioner was established by the legislature as an independent, elective office in 1907. The insurance commissioner's powers are set forth in chapter 48.02 RCW. To carry out the task of enforcing the insurance code the commissioner may make rules and regulations governing activities under the insurance code consistent therewith; may conduct investigations to determine whether any person has violated any provision of the code, including formal hearings; may take action against an insurance company, fraternal benefit society, health maintenance organization, ~~(and)~~ a health care service contractor, and a viatical settlement provider by revocation or suspension of its certificate of authority or certificate of registration; may fine insurance companies, fraternal benefit societies, health care service contractors, ~~(and)~~ health maintenance organizations, and viatical settlement providers; and may revoke or suspend the licenses of insurance agents, brokers, solicitors ~~((or))~~, adjusters, or viatical settlement brokers, or fine them. In addition, the commissioner may issue a cease and desist order pursuant to the general enforcement powers granted by RCW 48.02.080, or pursuant to that section, the commissioner may bring an action in court to enjoin violations of the insurance code.

(2) **Duties and responsibilities imposed by Title 48 RCW.**

(a) The insurance code is found at Title 48 of the Revised Code of Washington. It deals largely with the commissioner's regulation of insurance companies, insurance agents, brokers, solicitors, and adjusters.

Chapter 48.29 RCW regulates the activities of title insurers and their agents. Chapter 48.36A RCW regulates fraternal societies. Agents of fraternal benefit societies are subject to the licensing requirements of chapter 48.17 RCW. Fraternal benefit societies are subject to the provisions of chapter 48.30 RCW relating to unfair trade practices, and RCW 48.36A.360 sets forth the penalties for violation of the fraternal benefit society chapter.

Chapter 48.41 RCW, entitled "Health Insurance Coverage Access Act," provides a mechanism to assure the availability of comprehensive health insurance coverage to residents of Washington who are denied adequate health insurance coverage.

Chapter 48.44 RCW regulates health care service contractors and chapter 48.46 RCW regulates health maintenance organizations, as defined therein. The regulatory powers of the insurance commissioner over health care service contractors and health maintenance organizations are similar to those over commercial insurers.

Chapter 48.56 RCW, entitled "Insurance Premium Finance Company Act," regulates premium finance companies.

Chapter 48.102 RCW regulates viatical settlement providers and viatical settlement brokers as defined therein.

(b) The insurance code contains a number of substantive provisions which relate to the rights of policyholders in general and which are enforced for their benefit by the insurance commissioner. Those, for the most part, are contained in chapter 48.18 RCW, which is entitled "The insurance contract," and chapter 48.30 RCW, entitled "Unfair practices and frauds." Additional substantive provisions are contained in chapters of the insurance code dealing with specific lines of insurance. For example, certain standard provisions are required to be placed in ((a)) an individual disability insurance contract (chapter 48.20 RCW). Similarly, substantive provisions appear in chapter 48.21 RCW, entitled "Group and blanket disability insurance," chapter 48.23 RCW, entitled "Life insurance and annuities," chapter 48.24 RCW, entitled "Group life and annuities," chapter 48.22 RCW, entitled "Casualty insurance," chapter 48.34 RCW, entitled "Credit life insurance and credit accident and health insurance," chapter 48.56 RCW, entitled "Insurance Premium Finance Company Act," chapter 48.66 RCW, entitled "Medicare Supplemental Health Insurance Act," ((and)) chapter 48.84 RCW, entitled "Long-term Care Insurance Act," and chapter 48.102 RCW, entitled "Viatical settlements regulation."

(3) **Additional duties of the insurance commissioner.** The state insurance commissioner has been assigned the special duty of preparing annuity tables for calculation of the industrial insurance reserve fund (RCW 51.44.070). The commissioner must also publish for use of the state courts and appraisers, tables showing the average expectancy of life, and values of annuities and life and term estates (RCW 48.02.160).

AMENDATORY SECTION (Amending Order R 92-18, filed 11/6/92, effective 12/7/92)

WAC 284-02-020 Organization and operations. The insurance commissioner is the head of an agency generally referred to as the insurance commissioner's office, and as such is its chief administrative officer. The commissioner's office consists of ((four)) the following major divisions: ((Administrative, company supervision, rates and forms regulation, and consumer protection.)) Company supervision, compliance and enforcement, consumer advocacy and outreach, investigations and enforcement, operations, and rates and contracts. The commissioner may appoint a chief deputy commissioner who has the same powers as are granted to the commissioner. The commissioner may appoint additional deputy commissioners for such purposes as he or she may designate (RCW 48.02.090). The commissioner may appoint a chief hearing officer who will have primary responsibility for the conduct of hearings, the

procedural matters preliminary thereto, and the preservation of hearing records. The position of chief hearing officer does not report to any of the ((three)) major divisions of the commissioner's office.

(1) ((Administrative division.

(a) Licensing and insurance education. Licenses are issued to individuals, partnerships, and corporations to act as insurance agents, brokers, solicitors, adjusters, and premium finance companies. Insurance education and licensing renewal requirements are the responsibility of this section and the content of continuing education programs is supervised by it.

(b) Taxes, fees, and accounting responsibilities. Taxes and fees imposed by the insurance code are collected and processed by the commissioner.

(i) Both domestic and foreign insurers are taxed on gross premium, pursuant to RCW 48.14.020. Fraternal benefit societies and title insurers are not taxed, as provided in chapters 48.36A and 48.14 RCW, respectively. Surplus line insurance is taxed pursuant to the provisions of RCW 48.15.120. Health care service contractors and health maintenance organizations are not taxed. The current rate of taxation is stated at RCW 48.14.020. Under the retaliatory provisions of RCW 48.14.040, if the laws of another state or country impose any taxes, fees, or other obligations in excess of the rate charged a Washington domestic insurer, a like rate or obligation may be imposed by the commissioner.

(ii) Fees paid by insurers (RCW 48.14.010), health care service contractors (RCW 48.44.040), health maintenance organizations (RCW 48.46.140), and agents, brokers, solicitors, and adjusters (chapter 48.17 RCW) are also collected by the administrative division.

((2)) Company supervision division. The deputy commissioner for company supervision supervises admission and examination of all insurers, charitable gift annuity writers, reinsurance intermediaries, broker controlled act, and viatical settlement providers, and examines their financial condition, market conduct practices, and rehabilitation activities.

(a) Admissions of companies. Admission of insurance companies ((and)), fraternal benefit societies, health care service contractors, health maintenance organizations, and viatical settlement providers is administered by the company supervision division. Additionally the commissioner, through this division, approves proxy statements of domestic stock companies (RCW 48.08.090), supervises the insider trading law (RCW 48.08.100 through 48.08.170) and control of domestic insurers (chapter ((48.31A)) 48.31B RCW), registers liability risk retention groups (chapter 48.92 RCW), handles certification of official documents, and approves company names.

(b) Examinations (financial and market conduct). Examination of authorized insurers is regulated by chapter 48.03 RCW. Examinations of health care service contractors are regulated at RCW 48.44.145. Examinations of health maintenance organizations are regulated at RCW 48.46.120. Each domestic insurer ((and each)), health care service contractor, health maintenance organization, rating organization, and examining bureau licensed in this state is examined as often as the commissioner deems advisable but at least once in every five years. Examinations of advisory organizations and underwriting or reinsurance groups are per-

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formed as often as the commissioner deems appropriate. The commissioner may accept the last recent examination of nondomestic insurers. Examiners analyze the insurers' various accounts, records, and files to determine the financial condition of the company and to ascertain whether business is being conducted in conformity with the insurance code and its regulations. Reports of examinations are furnished to the organization, which then has ~~((ten))~~ five days to request a hearing to consider objections to the report. Once the hearing has been held and modifications deemed necessary have been made, the report may then be made public; although the commissioner may withhold the report if it is in the public interest to do so (RCW 48.03.040 and 48.03.050).

~~((3))~~ (2) Compliance and enforcement. The deputy commissioner for compliance and enforcement supervises the drafting of changes to and interpretations of issues related to the insurance code and its regulations; fulfills special consumer advocacy functions; and performs investigations to ensure compliance with the insurance laws and regulations of this state. This division evaluates existing statutes and rules, proposes new insurance regulations, and assists in the enforcement of laws and regulations. In the performance of these duties, this division provides support and assistance to the other divisions of the commissioner's office.

(3) Consumer advocacy and outreach. The deputy commissioner for consumer advocacy and outreach supervises compliance officers who act as consumer advocates by providing advocacy and assistance to consumers who make complaints against insurers or request assistance. This division also helps educate consumers about insurance issues.

(a) Consumer assistance. Compliance officers handle written and oral inquiries and complaints from policyholders and claimants. Assistance is rendered by the commissioner pursuant to authority to enforce the various provisions of the insurance code, including RCW 48.02.060, 48.02.080, and 48.02.160, and is based on authority to take disciplinary action against an insurance company and other licensees.

(b) Special programs. To help consumers find their way through the sometimes confusing maze of state, federal, and private insurance options available to citizens, the insurance commissioner sponsors the senior health insurance benefits advisors (SHIBA) program. SHIBA volunteers throughout the state act as unpaid advisors to consumers in the community, answer basic insurance questions, and refer people to the proper resource to find solutions to their insurance problems. In order to assure the objectivity of advice given by SHIBA volunteers, the commissioner has determined that no one connected to the SHIBA program may be an active agent of an insurer selling disability insurance policies or contracts issued by health care service contractors or health maintenance organizations.

(4) Investigations and enforcement.

(a) Members of this division investigate activities of licensed or registered insurers or other carriers to determine whether corrective action or disciplinary proceedings are needed, and institute proceedings leading to fines, license revocations, or suspensions, as appropriate.

(b) In addition, the investigations and enforcement division supervises the licensing and continuing education of those who solicit insurance or other contracts under the authority of the insurance code, solicitors, and adjusters

(both independent and public). Licenses are issued to individuals, partnerships, and corporations to act as insurance agents, brokers, solicitors, adjusters, viatical settlement brokers, and premium finance companies. Insurance education and licensing renewal requirements are the responsibility of this division and the content of continuing education programs is supervised by it.

(5) Operations. The deputy commissioner for operations supervises the operation and administration of the commissioner's office and is responsible for collecting and accounting for all taxes and fees imposed by the insurance code.

(a) Both domestic and foreign insurers are taxed on gross premiums, pursuant to RCW 48.14.020. Health care service contractors and health maintenance organizations are taxed on gross premiums, pursuant to RCW 48.14.0201. Surplus line insurance is taxed pursuant to RCW 48.15.120. Risk retention groups and purchasing groups are taxed on gross premiums, pursuant to the provisions of RCW 48.92.095. Fraternal benefit societies and title insurers are not taxed (pursuant to chapters 48.36A and 48.14 RCW, respectively). The current rate of taxation is stated in RCW 48.14.020 and 48.14.0201. The insurance code makes no provision for taxing viatical settlement providers.

(b) Under the retaliatory provisions of RCW 48.14.040, if the laws of another state or country impose any taxes, fees, or other obligations which exceed any such taxes, fees, or other obligations imposed by the laws of this state, a like rate or obligation may be imposed by the commissioner upon insurers of such other state or country.

(c) Fees paid by insurers (RCW 48.02.190 and 48.14.010), health care service contractors (RCW 48.02.190 and 48.44.040), health maintenance organizations (RCW 48.46.120 and 48.46.140), viatical settlement providers (RCW 48.102.010 and WAC 284-97-020) and viatical settlement brokers (RCW 48.102.010 and WAC 284-97-030), as well as fees paid by agents, brokers, solicitors, adjusters (RCW 48.14.010 and chapter 48.17 RCW), are all collected and accounted for by the operations division.

(d) The costs of operating the insurance commissioner's office are governed by RCW 48.02.190 and 48.46.120.

(6) Rates and ~~((forms regulation))~~ contracts division.

(a) This division reviews ~~((policy))~~ forms of insurance policies or contracts, health care service contracts, ~~((and))~~ health maintenance organization agreements, viatical settlement contracts, and any applications, ~~((policy))~~ riders, or endorsements appertaining thereto (RCW 48.18.100, 48.44.040, 48.44.070, 48.46.060, or 48.66.035). Such forms are disapproved if, upon review, they are found to violate the provisions of RCW 48.18.110, 48.44.020, 48.44.070, 48.46.060, or 48.66.035.

(b) The rates and ~~((forms regulation))~~ contracts division reviews the rates used by insurers, ~~((including))~~ health care service contractors, and health maintenance organizations (RCW 48.19.010(2), 48.19.040, 48.29.140, 48.44.040, 48.46.060, 48.66.035, or 48.84.030), and viatical settlement providers (RCW 48.102.020, 48.102.050). Rates filed in accordance with RCW 48.19.040 and 48.66.035 are disapproved if they are found to violate RCW 48.18.110(2), 48.19.020, or 48.66.035. Rates submitted pursuant to RCW 48.19.010(2), 48.44.040, 48.46.060, ~~((or))~~ 48.84.030, or 48.102.020 are filed in accordance with the appropriate

section; however, approval is withdrawn from the form of policy, contract, or agreement for which the rates are being filed if, upon review, it is determined that the benefits are unreasonable in relation to the premiums charged (RCW 48.18.110(2), 48.19.020, 48.44.020, 48.46.060, ~~((or))~~ 48.84.030, or 48.102.020). Rates submitted pursuant to RCW 48.29.140 or 48.34.100 are filed in accordance with chapters 48.29 and 48.34 RCW.

(c) ~~((The rates and forms regulation division is responsible for supervising the admission of health care service contractors and health maintenance organizations, as well as for analyzing their financial solvency and reviewing their overall operation (chapters 48.44 and 48.46 RCW).~~

(4) ~~Consumer protection division. The deputies in the consumer protection division act as consumer advocates by rendering assistance to consumers who make complaints against insurers. In addition, this division drafts changes to, and interprets issues relative to, the insurance code and its regulations, performs special consumer advocacy functions relating to education of senior citizens, and investigates licensees to insure compliance with the insurance laws and rules of this state.~~

(a) ~~Consumer assistance. Code compliance officers, currently located in offices of the insurance commissioner in Olympia, Seattle, Spokane, Tacoma and Yakima, handle written and oral inquiries and complaints from policyholders and claimants. Assistance is rendered by the commissioner pursuant to authority to enforce the various provisions of the insurance code, including RCW 48.02.060, 48.02.080, and 48.02.160, and based on authority to take disciplinary action against an insurance company and other licensees. While the consumer protection division provides assistance to members of the public and tries to resolve complaints concerning insurers and licensees, some matters will involve disputed facts or laws and will have to be resolved in court or arbitration proceedings. The commissioner is not a substitute for the courts.~~

(b) ~~Regulations and statutes. The consumer protection division evaluates existing statutes and rules, proposes additional legislation, drafts new insurance regulations, and assists in the enforcement of laws and regulations.~~

(c) ~~Investigation and enforcement. Members of the consumer protection division investigate activities of licensees and companies to determine whether corrective action or disciplinary proceedings are needed, and institute proceedings leading to fines, license revocations or suspensions, as appropriate.~~

(5) ~~Special programs. To help senior consumers find their way through the sometimes confusing maze of state, federal, and private insurance options available to citizens over age sixty, the insurance commissioner sponsors the senior health insurance benefit advisors (SHIBA) program. SHIBA volunteers throughout the state act as unpaid advisors to other seniors in the community, answer basic health insurance questions, and refer people to the proper governmental agency to find solutions to their insurance problems. In order to assure the objectivity of advice given by SHIBA volunteers, the commissioner has determined that no one connected to the SHIBA program may be an active agent of an insurer selling disability insurance policies or contracts in this state.~~

(6)) Each rate or form filing submitted by an insurer, health care service contractor, health maintenance organization, or viatical settlement provider shall be accompanied by a transmittal form designated by the commissioner. The transmittal form is available from the commissioner's office upon request and is published from time to time. The transmittal form identifies information needed to track the filing on the insurance commissioner's data base.

(7) Legal assistance from the attorney general. Assistant attorneys general are assigned as needed to the insurance commissioner's office to render legal advice, to represent the commissioner in disciplinary hearings and court cases, and to assist in the drafting of legislation and regulations.

~~((7) Insurance advisory examining board. An insurance advisory examining board, made up of seven Washington insurance agents or brokers who have been licensed in this state for at least five years, has the power to recommend general policy concerning the scope, content, procedure, and conduct of examinations to be given for licenses as insurance agents, brokers, or solicitors (RCW 48.17.135).))~~

AMENDATORY SECTION (Amending Order R 91-5, filed 8/13/91, effective 9/13/91)

WAC 284-02-030 Obtaining service of process over foreign and alien insurers. (1) Although domestic insurers, health care service contractors, health maintenance organizations, and other resident licensees, are served with legal process personally, the insurance commissioner is the party on whom service of process should be made on all foreign and alien insurers, whether authorized to transact business in this state or not. The exact procedures are set forth in the applicable statutes. Service of process against authorized foreign and alien insurers, other than surplus line insurers, must be made pursuant to RCW 48.05.200 and 48.05.210. RCW 48.05.220 specifies the proper venue for such actions. Service of process against surplus line insurers can be made on the commissioner, pursuant to the procedures set forth in RCW 48.05.215 and 48.15.150. (A surplus lines insurer markets coverage which cannot be procured in the ordinary market from authorized insurers.) Service of process against other unauthorized insurers may be made on the commissioner, pursuant to the procedures set forth in RCW 48.05.215. The commissioner is not authorized to accept service of process on domestic or foreign health care service contractors or health maintenance organizations.

(2) Where service of process against a foreign or alien insurer is made through service upon the commissioner (pursuant to RCW 48.05.210 or 48.05.215), against a nonresident agent or broker (pursuant to RCW 48.17.340), or against a viatical settlement provider or broker (pursuant to chapter 48.102 RCW or chapter 284-97 WAC), such service ((must)) shall be made by personal service at, or by registered mail sent to, the Olympia, Washington, office of the insurance commissioner, and shall otherwise comply with the requirements of the applicable statute.

(3) Service upon a branch office of the commissioner is not permissible and will not be accepted. Pursuant to RCW 1.12.060, whenever the use of "registered" mail is called for, "certified" mail with return receipt requested((;)) may be used.

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-040 Applying for a license as agent, adjuster, broker or solicitor. Licensing requirements and instructions for obtaining a license as an insurance agent, adjuster, broker or solicitor, or as a viatical settlement broker may be obtained from the licensing section ~~((in Olympia))~~ of the investigations and enforcement division.

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-050 Application for admission as an authorized insurer, fraternal benefit society, health care service contractor, ~~((or))~~ health maintenance organization, or viatical settlement provider. A check list of documents required for an application for admission is available from the company supervision ~~((deputy))~~ division. The statutory requirements are contained in chapter 48.05 RCW (all insurance companies); chapter 48.06 RCW (domestic companies); chapter 48.07 RCW (domestic stock companies); chapter 48.09 RCW (mutual companies); chapter 48.10 RCW (reciprocal companies); chapter 48.36A RCW (fraternal benefit societies); chapter 48.102 RCW (viatical settlement providers); chapter 48.44 RCW (health care service contractors), and chapter 48.46 RCW (health maintenance organizations). Capital and surplus requirements for stock insurance companies are contained in RCW 48.05.340.

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-060 Filing complaint against company, agent, broker, solicitor, or adjuster. A grievance against an insurance company, fraternal benefit society, viatical settlement provider, health care service contractor, health maintenance organization, agent, broker, solicitor, ~~((or))~~ adjuster, or viatical settlement broker may be filed with the insurance commissioner. ~~((To do so))~~ The insurance commissioner should be supplied with as many facts as possible to assist in the investigation of the complaint. This should include: The correct name of the insurance company~~((s))~~ or other entity issuing the policy or contract; the policy and/or claim number~~((s))~~; the name of the agent, broker, solicitor, ~~((or))~~ adjuster, or viatical settlement broker; the date of loss~~((s))~~ or the company's or other licensee's action; and a complete explanation of the loss or other problem. A form to be used in making a complaint may be requested by telephone from one of the insurance commissioner's offices. Use of such form may be helpful in organizing the information, but is not required.

AMENDATORY SECTION (Amending Order R 91-5, filed 8/13/91, effective 9/13/91)

WAC 284-02-070 Hearings of the insurance commissioner. (1)(a) Hearings of the insurance commissioner's office are conducted according to chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). Two types of hearings are conducted: Rule-making hearings and adjudicative proceedings or contested case hearings, the latter including appeals from disciplinary actions taken by

the commissioner. Under RCW 48.04.010 the commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under the code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing. Requests for hearings must be made in writing to the commissioner at ~~((his))~~ the commissioner's Olympia office, must specify how the person making the demand has been aggrieved by the commissioner, and ~~((the demand))~~ must specify the grounds to be relied upon as the basis for the relief sought.

(b) Files of completed investigations, complaints against insurers, and rate or contract filings maintained by the commissioner are generally available for public inspection and copying during business hours (see chapter 284-03 WAC), subject to other applicable law. Review of these files is usually the cheapest and most efficient method of discovery.

(c) Accommodation will be made for persons needing assistance, for example, where English is not their primary language, or for hearing impaired persons.

(2) Contested cases or adjudicative proceedings.

(a) Provisions specifically relating to disciplinary action taken against insurance agents, brokers, solicitors, ~~((or))~~ adjusters, or viatical settlement brokers are contained in RCW 48.17.530, 48.17.540, 48.17.550, ~~((and))~~ 48.17.560 and chapter 48.102 RCW. Provisions applicable to other adjudicative proceedings are contained in chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The uniform rules of practice and procedure ~~((which))~~ appear in Title 10 of the Washington Administrative Code ~~((govern procedures not contained in the statutes)).~~ The grounds for disciplinary action against insurance agents, brokers, solicitors, and adjusters are contained in RCW 48.17.530; grounds for similar action against insurance companies are contained in RCW 48.05.140~~((s))~~; grounds for actions against fraternal benefit societies are found at RCW 48.36A.300 (domestic) and RCW 48.36A.310 (foreign)~~((s))~~; grounds for actions against viatical settlement providers are found in chapter 48.102 RCW; grounds for actions against health care service contractors are contained in RCW 48.44.-160~~((s))~~; and grounds for action against health maintenance organizations are contained in RCW 48.46.130. These statutes provide that the insurance commissioner may suspend or revoke a licensee's license, or the certificate of authority or registration of an insurer, fraternal benefit society, viatical settlement provider, health care service contractor, or health maintenance organization. In addition, the commissioner may generally levy fines against those licensees and organizations.

(b) Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence ~~((are))~~ is not required.

(i) The commissioner may delegate ~~((to any deputy))~~ the authority to hear and determine the matter and enter the final order pursuant to RCW 48.02.100 and 34.05.461 to a presiding officer; or may utilize the services of an administrative law judge in accordance with chapter 34.12 RCW and

the Administrative Procedure Act (chapter 34.05 RCW). The initial order of an administrative law judge will not become a final order without the commissioner's review (RCW 34.05.464).

(ii) The hearing will be recorded by any method chosen by the presiding officer. Except as required by law, the commissioner's office is not required, at its expense, to prepare a transcript. Any party, at the party's expense, may cause a reporter approved by the commissioner to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if, in the opinion of the presiding officer, the making of the additional recording does not cause distraction or disruption. If appeal from the commissioner's order is made to the superior court, the recording of the hearing will be transcribed, and certified to the court.

(iii) The commissioner or the presiding officer may allow~~(s)~~ any person affected by the hearing to be present during the giving of all testimony and will allow the aggrieved person a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence. Any person heard must make full disclosure of the facts pertinent to the inquiry.

(c) Unless a person aggrieved by an order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of licensees, within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records, the right to such a hearing shall conclusively be deemed to have been waived (RCW 48.04.010(3)).

(d) Prehearing or other conferences for the settlement or simplification of issues may be held at the discretion and direction of the presiding officer.

(3) **Rule-making hearings.** Rule-making hearings of the insurance commissioner are conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW), chapter 34.08 RCW (the State Register Act), and chapter 48.04 RCW. Under applicable law all interested parties must be afforded an opportunity to express their views concerning a proposed regulation of the insurance commissioner's office, either orally or in writing. The commissioner will accept comments on proposed rules by electronic telefacsimile transmission or electronic mail but will not accept comments by recorded telephonic communication (RCW 34.05.325(3)). Notice of intention of the insurance commissioner to adopt a proposed rule or regulation is published in the state register~~(s)~~ and is sent to anyone who has requested notice in advance~~(s)~~ and to persons ~~((whom))~~ who the commissioner determines would be particularly interested in the proceeding. The commissioner may require persons requesting copies of all proposed rule-making notices of inquiry and hearing notices to pay the cost of mailing these notices pursuant to RCW 34.05.320(3).

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-080 Publications and information available. (1) **Insurance code.** The insurance commissioner publishes a copy of Title 48 RCW, pursuant to authority of RCW 48.02.180. Copies of the administrative rules and

regulations of the insurance commissioner (Title 284 WAC) are available in pamphlet form. Each may be purchased from the commissioner's Olympia office. In addition, Titles 48 RCW and 284 WAC are available in any law library, as well as in most general libraries.

(2) **List of authorized insurers.** Except as provided in chapter 48.15 RCW, an insurer not authorized to do business in Washington is forbidden by law to solicit business in this state (RCW 48.15.020). The insurance commissioner publishes periodically a list of all insurance companies authorized to do business in this state. Such lists are available on request from the insurance commissioner's office. ~~((An insurer not authorized to do business in Washington is forbidden by law from soliciting business in this state (RCW 48.15.020).))~~ The commissioner may require persons requesting copies of the list of authorized and registered companies to pay the cost of producing and mailing this list.

(3) **Annual report.** The insurance commissioner publishes an annual report, as required by RCW 48.02.170, a copy of which is available on request. The commissioner may require all persons requesting a copy to pay the cost of developing, printing, and mailing the annual report. Generally, the annual report contains a list of all insurers authorized to transact insurance in this state, showing the insurer's name, location, and kinds of insurance transacted. It also tabulates abstracts of the annual statements of all authorized insurers, and contains a summary of the operations of the insurance commissioner's office.

(4) **Policy and contract forms and rates.** Rates of insurance companies and other licensees offering contracts in this state, and all policy forms required to be filed ~~((and/or))~~ or approved by the insurance commissioner ~~((s office))~~ are on file in ~~((that))~~ the commissioner's office and are public records.

(5) **Examination reports, annual reports.** Reports of examination and annual reports of insurance companies, fraternal benefit societies, viatical settlement providers, health care service contractors, and health maintenance organizations are on file in the insurance commissioner's office and are open for public inspection.

(6) **Official actions of the insurance commissioner.** As required by the Administrative Procedure Act, actions taken by the insurance commissioner's office relating to adoption of rules or the discipline of insurance companies, fraternal benefit societies, viatical settlement providers, health care service contractors, health maintenance organizations, insurance agents, brokers, solicitors, ~~((s))~~ adjusters, and viatical settlement brokers are on file in the commissioner's Olympia office and are a matter of public record.

(7) **Deposits of insurers.** Records of deposits of insurers, required by chapter 48.16 RCW and other sections of the insurance code, are on file in the insurance commissioner's office.

(8) **Articles of incorporation, bylaws of insurers.** All insurers are required to file their articles of incorporation and bylaws, and any amendments thereto, with the insurance commissioner ~~((s office))~~. These are open for public inspection in the insurance commissioner's office.

AMENDATORY SECTION (Amending Order R 88-10, filed 11/18/88)

WAC 284-02-100 Petition for adoption, amendment, or repeal of rules. (1) As ~~((required))~~ authorized by the Administrative Procedure Act, any interested person may petition the commissioner requesting the adoption, amendment, or repeal of any rule. The petition shall be in writing, dated, and signed by the petitioner. In addition to the information set forth in RCW 34.05.330(3), each petition shall include the following information:

(a) The name and address of the person requesting the action, and, if pertinent, the background and identity of the petitioner and the interest of the petitioner in the subject matter of the rule;

(b) The full text of any proposed new or amendatory rule and the citation and caption of any existing rule to be amended or repealed;

(c) A narrative explaining the purpose and scope of any proposed new or amendatory rule including a statement generally describing the statutory authority relied upon by the petitioner, how the rule is to be implemented, and giving reasons for the proposed action, accompanied by necessary or pertinent data in support ~~((of))~~ thereof; and

(d) Statements from other persons in support of the action petitioned are encouraged.

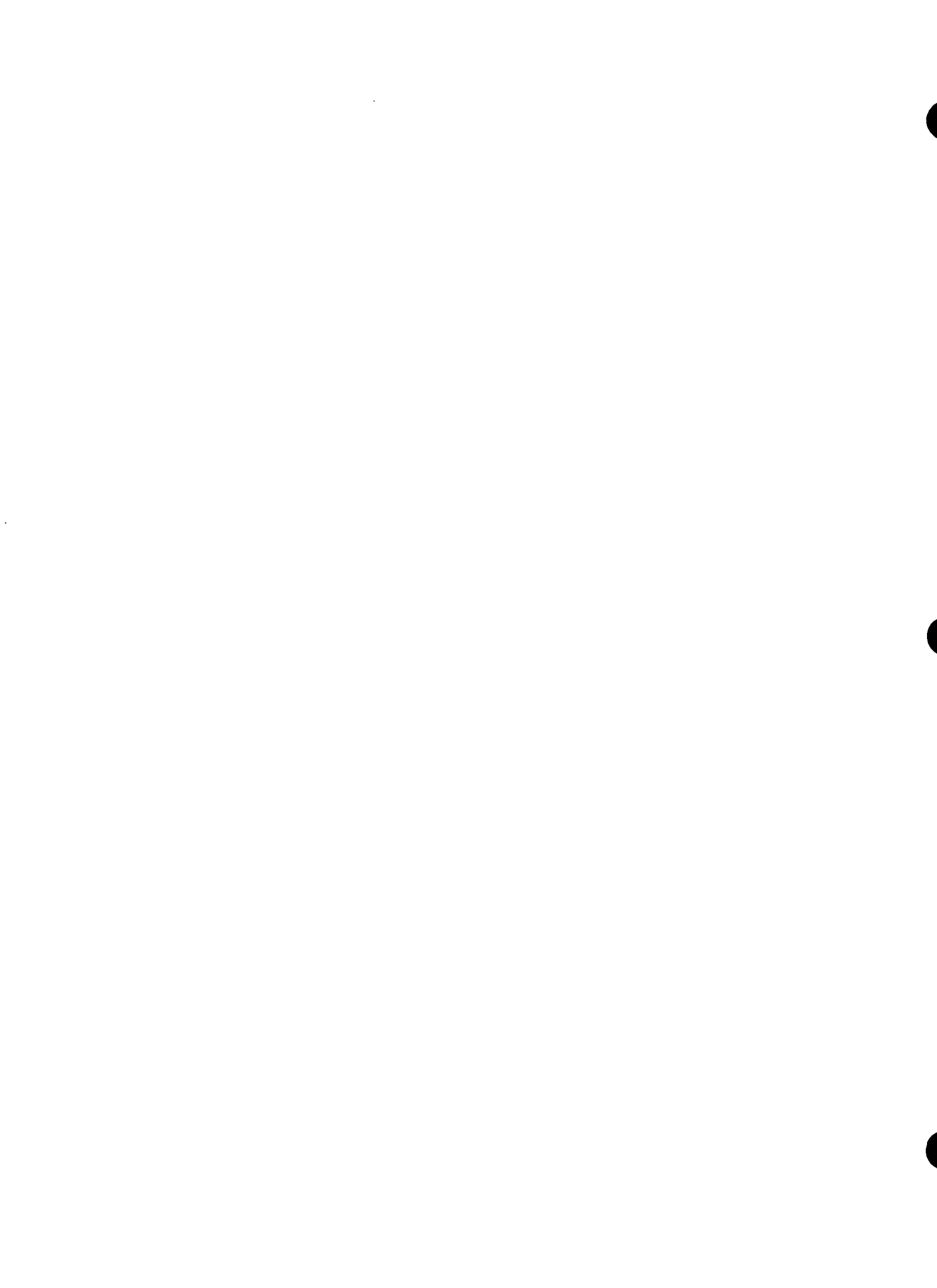
(2)(a) Within ~~((thirty))~~ sixty days after submission of a petition to adopt, amend, or repeal any rule, the commissioner ~~((shall))~~ will formally ~~((consider the petition and all supporting documentation presented. The commissioner shall within thirty days after consideration either))~~ deny the petition in writing to the person requesting the action, stating the reasons therefore, and, if appropriate, will state the alternative means by which the commissioner will address concerns raised; or ~~((shall))~~, the commissioner will initiate rule-making proceedings in accordance with the Administrative Procedure Act.

(b) If the commissioner denies a petition to repeal or amend a rule, the petitioner may appeal the denial to the governor, within thirty days of the denial, according to the procedure set forth at RCW 34.05.330(2).

(3) If the commissioner determines it to be in the interest of the public, the commissioner may order a hearing for the further consideration and discussion of the requested adoption, amendment, or repeal of any rule.

(4) For information concerning the subjects of rules being proposed, or to request copies of rules or copies of materials presented to the commissioner during the rule-making process, members of the public may contact the agency's rules coordinator. The name, address, and phone number of the rules coordinator are published at least annually in the *Washington State Register*.

(5) The office of financial management prescribes by rule a format for petitions for adoption, amendment, or repeal of rules. This form may be helpful to petitioners, but its use is not required. Petitions for adoption, amendment, or repeal of rules will be accepted whether or not the petition form adopted by the office of financial management is used.



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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-010 Authority and purpose. These rules are adopted under ~~((the authority of))~~ RCW 29.19.070 ~~((for the purposes of assuring))~~ to provide uniformity in the conduct of ((a)) the presidential ((preference)) primary and to facilitate the ((operation of the procedures mandated by that)) amendments to chapter 29.19 RCW in Chapter 20, Laws of 1995, 1st. Special Session and the national and state rules of the major political parties.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-020 Definitions. As used in this chapter:

(1) "County auditor" means the county auditor in a noncharter county or the officer, irrespective of title, having the overall responsibility to maintain voter registration information and conduct state and local elections in a charter county, and his or her deputies or staff where the context indicates;

(2) ~~((("Northwest states" means the states of Washington, Oregon, Idaho, Montana, and Alaska;~~

~~((3)) "Regional primary" means whenever Washington and at least one other northwest state hold a presidential primary on the same day;~~

~~((4)) "Major political party" means a political party of which at least one nominee for president, vice-president, United States senator, or state-wide office received at least five percent of the total vote cast at the last preceding state general election for that office in an even-numbered year((; or as defined by RCW 29.01.090 if that definition is different;~~

~~((5)) "Members of a political party" means those persons who, in conjunction with a presidential primary, sign a statement of intent to file a nominating petition or sign a nominating petition, and indicate on that statement or petition that they consider themselves to be members of a particular major political party));~~

~~((6))~~ (3) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a presidential ~~((preference))~~ primary;

(b) A facsimile of the contents of a particular ballot, whether printed on a paper ballot or ballot card or as part of a voting ~~((machine or voting))~~ device;

(c) A physical or electronic record of the choices of an individual voter at a presidential ~~((preference))~~ primary;

(d) A physical document on which the voter's choices are to be recorded;

~~((7))~~ (4) "Paper ballot" means a piece of paper on which the ballot for a presidential primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

~~((8))~~ (5) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure, and that is to be tabulated on a ~~((vote tallying))~~ vote tallying system;

~~((9))~~ (6) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a presidential ~~((preference))~~ primary or to canvass votes cast in a presidential ~~((preference))~~ primary;

~~((10))~~ (7) "Voting device" means a piece of equipment used for the purpose of marking, or to facilitate the marking, of a ballot to be tabulated by a vote tallying system, or a piece of mechanical or electronic equipment used to directly record votes and to accumulate results for a number of issues or offices from a series of voters; and

~~((11))~~ (8) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data

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processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes;

(9) "Ad-hoc committee" means the committee created under RCW 29.19.020 that has the authority to change the date of the presidential primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-030 Presidential ((preference)) primary—When held. ((Washington's)) A presidential ((preference)) primary shall be held on the fourth Tuesday in May of each year in which a president of the United States is to be elected, or on ((*) the alternate date selected by the ((secretary of state pursuant to the provisions of)) ad-hoc committee under RCW 29.19.020((;)) and WAC 434-75-040((, and 434-75-050)).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-040 Presidential ((preference)) primary—Changing the date. (1) The ((secretary of state)) ad-hoc committee may, ((pursuant to the provisions of)) under RCW 29.19.020 ((and in the manner provided by WAC 434-75-050)), change the date of the presidential ((preference)) primary ((in order to advance the cause of a regional primary)) from the date specified in RCW 29.19.020 to any other date recommended under that statute.

(2) The secretary of state shall convene the ad-hoc committee when either:

(a) The secretary of state proposes an alternate date on which to hold the presidential primary; or

(b) The state committee of a major political party delivers to the secretary of state a written proposal to change the date of the presidential primary.

(3) The secretary of state shall notify all of the members of the ad-hoc committee in writing, at least seven days in advance of the meeting, of the time and place of the meeting to consider changes to the date of the presidential primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-050 Procedures to be followed when changing primary date. ((In the event the secretary of state chooses to change)) If the date of the presidential primary is changed under RCW 29.19.020 and WAC 434-75-040 from the fourth Tuesday in May to another date, ((he or she)) the secretary of state shall((, not later than June 1 of the odd-numbered year immediately preceding the year in which a president is to be elected,)) promptly notify the ((following persons or organizations)) the county auditors and the chairperson of the national committee of each major political party, in writing, of ((his or her intent to change the)) that date((;):

(1) The governor of the state of Washington;

(2) The speaker of the Washington state house of representatives;

(3) The president of the Washington state senate;

(4) The county auditors of the state of Washington;

(5) The chairpersons of each major political party's state central committee;

(6) The chairpersons of each major political party's national committee;

(7) The secretaries of state of the northwest states;

(8) The Federal Election Commission;

(9) Any other person or organization he or she deems appropriate.

Not later than thirty days following the notification of intent to change the date, the secretary shall notify the above listed persons of his or her final decision regarding the date of the primary).

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-060 Designation of candidates by secretary of state. Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, ((all persons and organizations listed in WAC 434-75-050 and all)) the county auditors, the chairperson of each major political party, and each of the candidates ((so designated)) whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC 434-75-070.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-070 Removal from list of designees. Each candidate designated by the secretary of state shall appear on the primary ballot unless, not later than thirty-five days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify ((all persons and organizations notified under the provisions of WAC 434-75-050)) the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates((;)) of any names removed from the list of candidates for the presidential primary under this section.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-080 Petition process for ballot access. Members of a major political party may petition the secretary of state to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-75-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state ((pursuant to the provisions of)) under WAC 434-75-060. Such petitions must be filed with the secretary of state not later than the thirty-ninth day preceding the primary, shall be accompanied by a signed, notarized statement by the

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candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-090 Form of the nominating petition.

Nominating petitions shall be addressed to the secretary of state, be uniform in size, and shall contain the following:

- (1) The name of the candidate and his or her political party;
- (2) A statement that the persons signing the petition are registered voters of the state of Washington, that they are ~~((members of))~~ affiliated with the political party of the person on whose behalf the petition is filed, and that they have only signed the petition once;
- (3) Numbered lines for no more than twenty signatures;
- (4) Space for the signature, printed name, and address at which each petition signer is registered to vote, including county of residence;
- (5) Space for the signer to list the name or number of his or her precinct, if known(;
- ~~(6) Space for the signer to indicate his or her party affiliation)).~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-75-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-75-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW 29.79.200 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and any multiple signatures from the same voter. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-110 Determination of insufficient signatures. In the event the secretary of state determines that the petition contains insufficient valid signatures he or she shall notify the person filing the petition and the candidate on whose behalf the petition was filed. Persons so notified may submit additional signatures in support of the nomination as long as those signatures are submitted prior to the deadline established by RCW 29.19.030. ~~((The secretary's final determination of the sufficiency or insufficiency of any petition filed pursuant to the provisions of WAC 434-~~

~~75-080 may be appealed to the superior court of Thurston County. The court shall promptly hear such challenges and the superior court decision shall be final.))~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-120 Certification of candidates. In the event the secretary determines a petition bears sufficient signatures he or she shall include the name of ~~((the))~~ that candidate ~~((concerned on his or her))~~ in the official certification of candidates to the county auditors. This certification shall be ~~((done as soon as possible following the last day for candidates to withdraw, but in any event))~~ completed and transmitted to the county auditors not later than the ~~((fourth Tuesday))~~ thirty-fourth day prior to the primary. ~~((The secretary shall send a copy of this certification to all persons notified of the original list of designated candidates.))~~

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 3/26/91, effective 9/26/91)

WAC 434-75-130 Conduct of the presidential ~~((preference))~~ primary. All procedures relevant to the conduct of a presidential ~~((preference))~~ primary ~~((pursuant to))~~ under chapter 29.19 RCW, including the form of the ballot, the arrangement of candidate names, and the processing of absentee ballots and vote-by-mail ballots shall be the same as the procedures for the conduct of any partisan primary within the state except as may be modified by the rules of the national or state party of a major political party, chapter 29.19 RCW, or the rules ~~((contained))~~ in this chapter.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-140 Party declaration by voter. (1) Each registered voter desiring to participate in the presidential ~~((preference))~~ primary shall, prior to being issued either an absentee or a regular ballot, ~~((sign a statement in substantially the following form:~~

~~I, the undersigned registered voter of the state of Washington, hereby declare my desire to participate in the presidential preference primary of the party designated on this form, and I further request that the ballot of that party be provided to me.~~

.....
Signature of voter

.....
Address if different from
registration address))

be given the opportunity to subscribe to any declaration provided under the national or state political party rules of a major political party for participation in the presidential nominating process of that party.

(2) For the 1996 presidential nominating process, the state democratic party has adopted the following declaration:

"I declare that I consider myself to be a Democrat and I have not participated in the nominating process of any other political party for the 1996 presidential election".

(3) For the 1996 presidential nominating process, the republican state party has adopted the following declaration:

"I declare that I consider myself a Republican and I have not participated in the 1996 precinct caucus system of any other party".

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-150 Ballot request form used at the polling place. (1) The ~~((ballot request statement required by RCW 29-19-050 and))~~ political party declaration provided under WAC 434-75-140, when provided to a voter desiring to vote at a polling place, may appear on either:

(a) A paper form of uniform size for each voter. The form shall identify the presidential primary, the major political party, and the date, and shall have space for the voter to sign his or her name and address ~~((and shall also provide a method whereby the voter can indicate party preference))~~. The voter's precinct shall be clearly indicated on the form. Multiple-part reproducible forms may be used for this purpose. The signed ballot request forms shall be collected by the precinct election officers and transmitted to the county auditor at the end of the voting day; or

(b) A ~~((special))~~ format printed in the poll book which would permit the voter to sign his or her name and address and to indicate his or her political party preference, if any; or

(c) Separate poll books for each major political party distinct from the poll books for voters who do not subscribe to the declaration of any major political party.

(2) The county auditor shall provide appropriate instructions for the precinct election officers regarding the handling, maintaining, and transportation of the ~~((ballot request forms or statements))~~ political party declarations.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-160 Ballot—Separation of political parties. Separate ballots for each major political party shall be ~~((maintained))~~ provided as follows:

(1) Where a paper ballot is used, a separate ballot shall be prepared for each major political party containing the names of the candidates of that party certified by the secretary of state ((pursuant to the provisions of)) under WAC 434-75-120;

(2) Where a ballot card is used, separate ballot cards shall be provided for each major political party ((and for any alternate ballot issued pursuant to the provisions of WAC 434-75-200. Additionally, counties using voting systems which have ballot pages shall use a separate page or pages for each party)). Counties ~~((may also))~~ shall employ separate voting devices ~~((to distinguish the types of ballots used))~~ within ((a precinct)) each polling place for each major political party. Ballot cards must contain a machine readable pre-punch or a machine readable ballot code to distinguish, within each precinct, each ballot type used~~((;~~

~~((3) Where a voting device is used that directly records the vote on mechanical equipment or on direct recording~~

~~electronic equipment, separate voting labels shall be prepared for each major political party. The labels with the slate of candidates for each major political party shall be easily discernible on the voting panel. The mechanical voting device or direct recording electronic voting device shall be programmed so that the individual voter shall be able to vote only for candidates listed on the slate of the major political party indicated on the ballot request form))~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-180 Ballots—Arrangement of names—Instructions. (1) Voters who do not make a political party declaration under WAC 434-75-140 shall be issued a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120 listed alphabetically under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

(2) Voters who make a political party declaration under WAC 434-75-140 shall be issued a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120 ~~for ((a)) that party's nomination ((for the office of president shall be listed alphabetically in a column on the ballot))~~ listed alphabetically under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

(3) On paper ballots, a printed box shall be placed adjacent to each candidate's name. Provision for the voter to write-in the name of another candidate shall be provided on each ballot. ~~((Unless the voter indicates otherwise, or unless the write-in vote is made for a person whose name appears on the ballot of another political party, the political party of the person whose name is written in shall be presumed to be the same as that indicated on the ballot request form.))~~ The names of candidates on the presidential ~~((preference))~~ primary ballot shall not be rotated.

(4) The ballot shall contain instructions to the voters in substantially the following form:

"VOTE FOR ONE. ((IF YOU VOTE FOR MORE THAN ONE CANDIDATE OR IF YOU VOTE FOR THE CANDIDATE OF A PARTY OTHER THAN THE PARTY INDICATED ON YOUR BALLOT REQUEST FORM, YOUR VOTE IN THE PRESIDENTIAL PREFERENCE PRIMARY WILL NOT BE COUNTED)) If you vote for more than one candidate for this office, your vote in the presidential primary will not be counted."

The instructions shall be printed large enough to be easily read by the voter.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-190 Special election held in conjunction with the presidential ((preference)) primary. If a special election is scheduled concurrently with the presidential ~~((preference))~~ primary ~~((pursuant to))~~ under RCW 29.13.010 or 29.13.020, all measures or candidates for office for which the voters are eligible to vote at that special

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~~election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures ((in addition to)) separately from the presidential ((preference)) primary candidates. ((However, nothing in this section shall prevent the use of an alternate ballot for special elections as provided by WAC 434-75-200.))~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-210 Provisions regarding ballots applicable to absentees. Wherever applicable, the provisions regarding the arrangement and form of the presidential ((preference)) primary ballot shall apply to both absentee ballots and to those ballots used at the polling place.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-220 Absentee ballot request form. Any absentee ballot request form produced for use in the presidential primary must include ~~((a space))~~ an option for the voter to ((indicate in which)) subscribe to the declaration of a major political party under WAC 434-75-140 and participate only in the presidential primary ((he or she desires to participate, as provided by RCW 29-19-050 and WAC 434-75-140)) of that party. The absentee request shall also contain a statement in substantially the following form:

~~"((Unlike the regular state primary,)) Under Washington's presidential ((preference)) primary law, you may ((only request the)) subscribe to a declaration required by the rules of a major political party and receive a ballot containing only the candidates of ((one)) that political party. ((Please indicate below which party ballot you are requesting. You will be sent)) The rules of that major political party may provide that votes cast by persons subscribing to this declaration at the presidential primary be used to determine the allocation of delegates and alternates from this state to the national nominating convention of that party. If you wish to receive a ballot containing only the names of presidential candidates ((from)) for one political party, be sure to sign the declaration for that party."~~

Absentee ballot requests for the presidential primary shall in all other respects contain the information required, and be in the form specified, by chapter 29.36 RCW and chapter 434-40 WAC. The secretary of state shall design an absentee ballot application form for the presidential ((preference)) primary and shall provide this form to each county auditor, and to any other person or organization, upon request ~~((a sample of that request form)).~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-230 Incomplete absentee ballot requests. ~~((Except as otherwise provided by these rules,))~~ Incomplete absentee ballot applications for the presidential primary shall be handled in the manner provided by WAC 434-40-130 through 434-40-160.

AMENDATORY SECTION (Amending WSR 92-08-032, filed 3/24/92, effective 4/1/92)

WAC 434-75-240 ((Lack of party designation)) Processing absentee ballot requests. (1) In the event the auditor receives a written request for an absentee ballot that does not include ~~((party designation))~~ any signed political party declaration or receives a phone request for an unaffiliated absentee ballot, he or she shall ~~((either attempt to obtain a signed party designation in the manner provided by WAC 434-40-130(2), or he or she shall))~~ send ~~((the ballots of each major political party to the voter, together with instructions in substantially the following form:~~

~~Dear Voter:~~

~~We are in receipt of your Presidential Preference Primary absentee ballot application. However, your application is incomplete in that you did not indicate which political party's ballot you are requesting. Under Washington's Presidential Primary law, this information must be provided prior to your ballot being counted. We have, therefore, enclosed the ballots of each political party. You are entitled to vote the ballot of only one political party, and that must be the party indicated on the party designation/request form. Please complete the enclosed information and return it together with, but separate from, the appropriate party ballot. Do not place the party request form in the ballot security envelope.~~

~~I hereby request a ballot for the following major political party: (check one)~~

~~..... DEMOCRATIC REPUBLICAN~~

~~*~~
~~(Signature of Voter)~~

~~Each county auditor shall devise a method of ensuring that the ballot returned by the voter is of the party indicated on the request form without compromising the secrecy of the ballot)) that voter a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120.~~

~~(2) In the event the auditor receives a phone request for an absentee ballot of a major political party, he or she shall send the voter a ballot containing the names of all of the candidates of that party certified by the secretary of state under WAC 434-75-120. The auditor shall include with the ballot and return envelopes the appropriate political party oath together with instructions for executing and returning the signed oath. The political party oath may be affixed to the return envelope or may be on a separate piece of paper to be returned separately from the security envelope.~~

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

AMENDATORY SECTION (Amending WSR 92-08-032, filed 3/24/92, effective 4/1/92)

WAC 434-75-250 Ongoing absentee voters. (1) Each county auditor shall, prior to ~~((each))~~ the presidential ~~((preference))~~ primary, ~~((either:~~

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~~(1) Send to each ongoing absentee voter the ballots of each major political party, together with instructions and a ballot request form similar to those specified in WAC 434-75-240; or~~

~~(2)) send a ballot request form similar to the one provided under WAC 434-75-220 to each ongoing absentee voter and to all voters in vote-by-mail precincts in advance of the presidential ((preference)) primary, ((requesting that the voter indicate on that form which party)) giving those voters the opportunity to request a ballot ((he or she desires. The form may also have a space for the voter to indicate that he or she does not desire to participate in the presidential preference primary. If such an indication is received from the voter, no presidential preference primary ballot shall be sent)) containing only the presidential candidates of one major political party. In the event ((a)) an ongoing absentee voter does not return a ballot request form ((or a statement declining to participate in the presidential preference primary in advance of)) at least twenty-five days before the date ((for mailing ongoing absentee ballots, no ongoing absentee ballot)) of the primary, that voter shall be sent ((Such voters who subsequently express a desire to vote in the presidential preference primary may request a regular absentee ballot as provided by state law and these rules)) a ballot containing all of the candidates certified by the secretary of state under WAC 434-75-120.~~

(2) If the auditor receives a written or phone request for the ballot of a major political party from any ongoing absentee voter or voter in a vote-by-mail precinct to whom an unaffiliated ballot has already been sent, that request shall be processed as provided under WAC 434-75-240(2).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-260 Canvassing and tabulation of presidential primary absentee ballots. Unless otherwise provided by law, by the rules of the national or state party of a major political party, or by these rules, absentee ballots for the presidential ((preference)) primary shall be processed, canvassed, and tabulated, by legislative and congressional district, in the same manner as absentee ballots for other elections.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-270 Vote-by-mail precincts. Wherever applicable, presidential ((preference)) primary ballots for voters in vote-by-mail precincts shall be issued and processed in the same manner as ballots issued to ongoing absentee voters, as provided by statute, by the rules of the national or state committee of a major political party, and by these rules.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-280 Ballots not tabulated. The county auditor shall not count votes cast for the office of president of the United States in the presidential primary ((ballots)) in the following cases:

~~(1) ((Where the voter has no request on file indicating which political party ballot he or she requested;~~

~~(2) Where the voter has voted the ballot of a party other than the one he or she requested;~~

~~(3)) Where the voter has attempted to vote more than once for that office;~~

~~((4)) (2) Where the voter has voted for candidates of more than one political party, in which case all such votes shall be rejected;~~

~~((5)) (3) Where a write-in vote is made for a person who has declined the nomination as provided by WAC 434-75-070;~~

~~((6) Where a write-in vote is made with the incorrect party designation;~~

~~(7)) (4) Where the person issued a ((questioned)) special or challenged ballot does not otherwise satisfy the constitutional or statutory requirements for voting.~~

In those instances where the auditor is not sure whether a ballot or part of a ballot should be counted, he or she shall refer that ballot to the county canvassing board for their determination. The auditor shall maintain a record of those ballots not counted and the reason why they were not part of the official canvass of the primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-290 Canvassing and certification of presidential ((preference)) primary. County canvassing boards shall certify the results of the presidential primary, by congressional district, not later than the ((seventh)) tenth day following the primary. The county auditor shall send one original copy of the returns by mail ((and one copy by electronic facsimile transmission or by messenger)) to the secretary of state on the same day the returns are certified. Wherever applicable, the other procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential ((preference)) primary. Not later than the ((tenth)) twentieth day following the presidential ((preference)) primary, the secretary of state shall notify the ((persons and organizations listed in WAC 434-75-050)) candidates and the chairperson of the national and state committees of each major political party of the votes cast for each candidate listed on the ballot ((of each major political party;)) and of the write-in votes cast for any ((candidate receiving at least five percent of the votes cast for)) qualified write-in candidates ((of that party, and the aggregate total of votes cast for all write-in candidates receiving less than five percent of the total votes cast)).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-310 Mandatory recount provisions do not apply. The provisions of ((chapter 29.64)) RCW 29.64.015 regarding mandatory recounts do not apply to ((the conduct of)) a presidential ((preference)) primary. However, recounts may be requested ((pursuant to)) under the other provisions of that chapter

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-320 Political party preference data—Transmittal to the major political parties. No later than thirty days following the certification of the returns of the presidential (~~(preference)~~) primary by the secretary of state, the county auditor shall provide to the county and state (~~(central)~~) committee of each major political party, at actual reproduction cost, the names and addresses of those voters participating in the presidential primary (~~(for)~~) of that major political party. This may be accomplished by either:

(1) Integrating the ballot request and party preference data with the (~~(regular)~~) county voter registration file and producing a registered voter report containing the consolidated data in either machine-readable or printed format, which is provided to each major political party; or

(2) Providing to each major political party copies of the (~~(ballot request forms)~~) political party declarations that indicate the primary in which the voter participated (~~(segregated by precinct)~~); or

(3) Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated (~~(segregated by precinct)~~) and a separate report covering the (~~(preferences)~~) declarations of absentee voters.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-330 Retention of election material. The county auditor shall maintain all presidential (~~(preference)~~) primary material, including ballot request forms, absentee ballot envelopes, poll books, and ballots, for a period of twenty-two months following the presidential primary. (~~(Except for the ballot request form,)~~) The auditor (~~(shall, within)~~) may, at any time after sixty days following the certification of the returns by the secretary of state, remove from his or her automated voter registration files any (~~(other)~~) record of the party designation of any voter casting a ballot at the presidential (~~(preference)~~) primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-340 Claims for reimbursement. Following the presidential (~~(preference)~~) primary, each county auditor shall provide to the secretary of state a completed claim for reimbursement of expenses incurred by the county in conducting the primary. This cost shall be prorated with any other jurisdictions holding special elections in conjunction with the primary under RCW 29.13.045. The procedures for allocating such costs shall be the same as those prescribed by the office of the state auditor for election cost allocations to the state, cities, towns, and special purpose districts.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-350 Time for submission and payment of claims for reimbursement. Claims for reimbursement and supporting documents shall be submitted to the secretary of state not later than sixty days following the certification of the returns of the presidential (~~(preference)~~) primary by the secretary of state. The secretary of state shall compile such claims and present them to the state legislature at the next succeeding legislative session. Upon the granting of the relief claims by the legislature the secretary of state shall issue a warrant to each county submitting a claim.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-75-170	Secretary of state to designate color of ballots and election materials;
WAC 434-75-200	Questioned ballots/alternate ballots — Use by poll workers when voter declines to identify party; and
WAC 434-75-300	Canvassing and tabulation of other special elections.

NEW SECTION

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, as amended, are recodified as a new chapter, to be designated chapter 434-219 Washington Administrative Code, and internal references are updated accordingly.

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 44-10-320; 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

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 WSR 92-11-037, filed 5/18/92)

WAC 44-10-010 Definitions. Terms, when used in this chapter, shall have the same meaning as terms used in chapter 19.118 RCW. The following definitions shall supplement or aid in the interpretation of the definitions set forth in chapter 19.118 RCW.

~~((1))~~ The phrase "arbitration service" means the agency, firm, board, organization, individual or other entity selected by the attorney general through a request for proposal to conduct the arbitrations provided under chapter 19.118 RCW.

~~((2))~~ (1) The phrase "arbitration special master" means the individual or group of individuals selected by the ~~((arbitration service))~~ board to hear and decide special issues timely brought before the ~~((arbitration service))~~ board by the parties.

~~((3))~~ (2) The terms "attorney general" or "attorney general's office" means the person duly elected to serve as attorney general of the state of Washington and delegates authorized to act on his or her behalf.

(3) The phrase "intervening transferor" means any person or entity which receives, buys or otherwise transfers the returned new motor vehicle prior to the first retail transfer, sale or lease subsequent to being repurchased or replaced by the manufacturer.

(4) The phrase "Lemon Law resale documents" refers to the following:

(a) "Lemon Law Resale Windshield Display" means a document created and provided by the attorney general which identifies that: (i) the vehicle was reacquired by the manufacturer after a determination or adjudication of a dispute; (ii) the vehicle has one or more nonconformities or serious safety defects, or was out-of-service thirty or more days due to diagnosis or repair of one or more nonconformities; and (iii) the defects or conditions causing the vehicle to be reacquired by the manufacturer.

(b) "Lemon Law Resale Disclosure": means a document created and provided by the attorney general which identifies that: (i) the vehicle was reacquired by the manufacturer after a settlement, determination or adjudication of a dispute; (ii) the vehicle has one or more nonconformities or serious safety defects, or was out-of-service thirty or more

days due to diagnosis or repair of one or more nonconformities; and (iii) the defects or conditions causing the vehicle to be reacquired by the manufacturer.

(c) "Notice of Correction and Warranty" means a document created and provided by the attorney general which identifies each nonconformity or serious safety defect which was the basis of the settlement, determination or adjudication of the dispute. The document will provide space for the manufacturer to indicate whether each nonconformity or serious safety defect has been corrected and is warranted by the manufacturer.

(d) "Notice of out-of-state disposition of a reacquired vehicle" refers to a document created and provided by the attorney general which requires the manufacturer, agent or dealer to identify the destination state and the dealer, auction, other person or entity to whom the manufacturer sells or otherwise transfers the reacquired vehicle when the vehicle is taken to another state for any disposition, including: resale, transfer or destruction.

~~((4))~~ (5) The term "person" includes every natural person, firm, partnership, corporation, association, or organization.

(6) "Settlement" means the resolution of a dispute, under chapter 19.118 RCW, between the consumer and manufacturer after the New Motor Vehicle Arbitration Board has accepted the consumer's request for arbitration and which results in the manufacturer reacquiring the new motor vehicle directly or indirectly through an agent or a motor vehicle dealer.

(7) "Similar law of another state" refers to the law of another state which creates remedies for a manufacturer's failure to conform a vehicle to its warranty and under which the vehicle was reacquired by the manufacturer.

~~((5))~~ "Subsequent transferee" means a consumer that acquires a new motor vehicle and any remaining warranty coverage during the applicable manufacturer's written warranty period.

NEW SECTION

WAC 44-10-020 Designation of manufacturer contract. (1) A new motor vehicle manufacturer shall submit, in writing, to the Attorney General's Office, Lemon Law Administration the name, address and telephone number of an individual designated by the manufacturer to receive notices related to the arbitration program, service of subpoenas, and other correspondence from the attorney general related to the manufacturer's duties and responsibilities set forth in chapter 19.118 RCW.

(2) Where a manufacturer's production or distribution system is accomplished through more than one division or region, the manufacturer may designate an individual for a division or region for the purpose of receiving notices related to the arbitration program, service of subpoenas, and other correspondence from the attorney general related to the manufacturer's duties and responsibilities set forth in chapter 19.118 RCW.

(3) The manufacturer is responsible for providing written notice to the attorney general of its replacement of the designated individual or changes to the related address and telephone number.

(4) If no individual is designated or an insufficient address is provided all notices shall be sent to the corporate headquarters of the manufacturer.

AMENDATORY SECTION (Amending Order 87-4, filed 12/22/87)

WAC 44-10-030 Arbitration requests. A consumer must submit a ~~((completed))~~ request for arbitration form with copies of supporting documentation to the Attorney General's Office, Lemon Law Administration in Seattle or in the Attorney General's Office in Spokane, in order to apply for the new motor vehicle arbitration process. The request for arbitration form will be supplied, upon request, by the attorney general's office.

NEW SECTION

WAC 44-10-031 Effect of request for arbitration filing. (1) A request for arbitration is deemed to have been received within the thirty month limitation identified in RCW 19.118.090(2), if it: (a) is received by the Office of the Attorney General within thirty months from the date of original delivery of the new motor vehicle to a consumer at retail; and (b) identifies the consumer and the new motor vehicle which is the subject of the requested arbitration.

(2) If the attorney general finds that a request is not complete, the thirty month limitation will resume running three business days after the date the attorney general mails notice of incompleteness to the consumer.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-040 Attorney general screening of arbitration requests. (1) ~~((A submitted request for arbitration form shall be date stamped upon receipt by the attorney general.))~~ After a request for arbitration has been received, the attorney general shall review the form for completeness.

(2) The attorney general will screen the request for arbitration ~~((form))~~ and supporting documentation to determine ~~((if))~~ whether the request ~~((is))~~ appears timely, complete and ~~((complies))~~ to comply with the jurisdictional requirements of chapter 19.118 RCW. ~~((The date of screening shall be recorded in the request for arbitration file.))~~

~~((a))~~ A request will be considered timely if it is received within thirty months from the date of original delivery of the new motor vehicle to the original consumer at retail.)

~~((b))~~ (a) If a request ~~((is not timely))~~ appears to be untimely or ~~((does))~~ not in compliance ~~((empty))~~ with the jurisdictional requirements of chapter 19.118 RCW the attorney general will reject the request for arbitration and ~~((then))~~ notify the consumer of the reason for the rejection.

~~((c))~~ (b) A request will be considered complete if the information required by the request form is provided in full or if the consumer ~~((can))~~ provides a reasonable explanation for the absence of ~~((to the attorney general why))~~ any supporting documentation ~~((may be absent)).~~

~~((d))~~ (c) If a request is not complete, the attorney general will notify the consumer of any procedures or information required to complete the request.

~~((3))~~ If the attorney general finds that a request is not complete, the statute of limitations, for purposes of chapter

~~19.118 RCW, will resume running two business days after the date the attorney general mails notice of incompleteness to the consumer.))~~

~~((4))~~ (3) A consumer request that is based on a problem which does not manifest itself, is intermittent or unconfirmed shall not preclude an attorney general ~~((find- ing))~~ determination of the appearance of jurisdiction for purposes of initial screening. However, this section shall not preclude a party from raising jurisdictional issues at the arbitration hearing or subsequent court proceedings.

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 89-4, filed 7/24/89)

WAC 44-10-050 Assignment to ~~((arbitration service))~~ board. (1) After initial screening by the attorney general, all ~~((timely and complete))~~ requests for arbitration which appear to be timely, complete and to have met the jurisdictional requirements of chapter 19.118 RCW shall be assigned ~~((by the attorney general))~~ to the ~~((arbitration service))~~ board which will record the date it receives the assignment ~~((of receipt))~~ in the request for arbitration file.

(2) The ~~((arbitration service))~~ board must determine if it will accept the request for arbitration or reject the request for arbitration, for the reasons set forth in RCW 19.118.090, within three business days after the attorney general has forwarded the request for arbitration to the ~~((arbitration service))~~ board.

(3) The ~~((arbitration service))~~ board shall record the date of acceptance or rejection of the request for arbitration. The acceptance of the request shall commence the running of the forty-five calendar day period in which a hearing must be conducted.

(4) Upon acceptance of a request, the ~~((arbitration service))~~ board shall immediately send a notice of acceptance for arbitration to the consumer and manufacturer ~~((of its acceptance))~~ by certified mail/return receipt requested and shall inform the parties that a hearing shall be held within forty-five calendar days. The parties shall be sent formal notice of the actual hearing date by certified mail/return receipt requested, at least ten calendar days before the hearing. The designated manufacturer contact shall be sent a copy of the consumer's request and a manufacturer's statement form with the notice of ~~((arbitration))~~ acceptance.

AMENDATORY SECTION (Amending WSR 92-11-037, filed 5/18/92)

WAC 44-10-060 Powers and duties of arbitration special master. (1) An arbitration special master may be appointed by the arbitration board to hear and decide preliminary and post-hearing issues which are within the arbitration board's authority. Requests for an arbitration special master may be made to the board by either party ~~((jointly or by the arbitration service)).~~ ~~((However, no arbitration special master may be appointed after the arbitration decision unless requested within twenty (20) days after the date of mailing of the arbitration decision or by the date~~

~~the manufacturer receives the notice of acceptance from the arbitration service, whichever occurs first.)~~ Post-hearing arbitration special masters shall not resolve matters previously presented in the arbitration hearing and addressed in the arbitration decision, or extend the time for compliance beyond the time necessary to hear and notify the parties of a decision about the issues in dispute or requiring clarification.

(2) Issues which may be decided by the arbitration special master include but are not limited to: Motions to quash subpoenas, ~~((motions for telephone conference hearings, requests for continuances,))~~ disputes related to requests to view the vehicle, requests to set aside default determinations, ((resolution of factual)) disputes relating to ((effecting)) an arbitration award including specification of the award amounts which could not have been or were not resolved at the arbitration hearing or matters necessary for compliance with the arbitration decision such as: time and place for compliance, condition of the vehicle to be returned, clarification or recalculation of refund amounts or a determination that an offered vehicle is reasonably equivalent to the vehicle being replaced. The arbitration special master may conduct telephonic conferences with a party or parties, as appropriate, and may request additional written information in order to rule on issues.

(3) An arbitration special master shall not extend the forty day period during which the manufacturer must comply with the arbitration decision except where the arbitration special master makes a finding that:

(a) the dispute could not have been brought to the board allowing sufficient time to conclude compliance within the forty day compliance period; and

(b) the manufacturer's position in the dispute is supported by the special master's decision.

~~((3))~~ (4) Arbitration special masters shall sign a written oath prior to their appointment as arbitration special master attesting to their impartiality. There shall be no ex parte communication initiated by a party with an arbitration special master.

AMENDATORY SECTION (Amending Order 88-2, filed 2/3/88)

WAC 44-10-070 Manufacturer's statement. (1) The manufacturer shall ~~((be required, on a form prescribed by the attorney general, to))~~ provide information relevant to the resolution of the dispute to the consumer and ~~((arbitration service))~~ board on a form created by the attorney general. ((The manufacturer shall ensure that the completed manufacturer's statement form is received by the arbitration service and consumer within ten calendar days from the date of receipt of the notice of arbitration.)) The manufacturer's statement form shall be completely answered and shall include, but not be limited to, the following information:

(a) A statement of any affirmative defenses, and any legal or factual issues to be raised at the hearing. Any issues or affirmative defenses not raised in documents filed prior to the hearing may ~~((not be raised))~~ be excluded or limited by the arbitrator at the hearing; except as provided in WAC 44-10-080(6).

(b) The name, title, and business address of any person(s) the manufacturer plans to call as witnesses or from whom affidavits or written testimony will be presented;

(c) A statement identifying the year, make, model, options, color and any other significant information pertaining to the vehicle or vehicles it intends to offer as a reasonably equivalent replacement vehicle if the consumer prevails and requests replacement. If the manufacturer believes in good faith that replacement is impossible or unreasonable, the manufacturer must raise such issue in its statement.

(2) The manufacturer must exercise its ~~((right))~~ option to request a viewing of the consumer's motor vehicle by including a request to view the vehicle in the manufacturer's statement.

AMENDATORY SECTION (Amending Order 88-2, filed 2/3/88)

WAC 44-10-080 Manufacturer's ((right)) option to request a viewing of motor vehicle. (1) A manufacturer may request a viewing of the vehicle to aid in preparation of its defense. ~~((Such))~~ The request for a viewing of the vehicle must be indicated in the manufacturer's statement.

(2) The manufacturer and the consumer shall attempt to arrange a mutually agreeable time and location for such viewing. If after reasonable good faith attempts to arrange a viewing, a mutually agreeable time and location is not established, the manufacturer may request from the ~~((arbitration service))~~ board that an arbitration special master set a time and location for viewing.

(3) The arbitration special master, upon such request, shall establish a time and location for viewing that is reasonably convenient for the parties. The location may be the consumer's residence if other locations are not reasonably convenient for the parties. The consumer must be present during the viewing, unless the consumer expressly waives in writing the right to be present.

(4) The viewing is not meant to be another attempt to repair the vehicle and no repair procedures shall be conducted.

(5) The manufacturer may perform limited nonrepair diagnostic examinations and inspection procedures, such as test driving the vehicle or attaching a testing device to the vehicle. The results of any diagnostic procedures or data gathered as a result of such procedures shall be supplied to the consumer as soon as it is available.

(6) If the viewing of the vehicle reveals any affirmative defenses or legal or factual issues not previously raised in the manufacturer's statement or consumer's request for arbitration, either party may file amendments ~~((to their pleadings))~~ within three business days of the viewing, or, no later than three business days prior to the hearing date, whichever is earlier.

AMENDATORY SECTION (Amending WSR 90-19-024, filed 9/11/90)

WAC 44-10-090 Arbitration fee. (1) A ~~((five))~~ three dollar arbitration fee shall be collected by the new motor vehicle dealer or lease company from the consumer at completion of the sale or lease ~~((agreement))~~ of a new motor vehicle. ~~((except that such))~~ No fee shall ((not)) be collect-

ed where the purchase, lease or transfer is made to a party other than a consumer. ((in the following instances:

(a) Where the consumer is a business purchasing the new motor vehicle as part of a fleet of ten or more vehicles from the same new motor vehicle dealer at the same time for the direct use by the consumer in the consumer's business;

(b) Where the new motor vehicle is a moped, motorcycle which has an engine displacement of less than 750 cubic centimeters or a truck with nineteen thousand pounds or more gross vehicle weight rating;

(c) Where the sale is between a new motor vehicle dealer and another new motor vehicle dealer both of which have valid written agreements for the sale and service of vehicles with the same manufacturer.

(2) Upon collection of the arbitration fee by the new motor vehicle dealer, the arbitration fee shall be forwarded to the department of licensing with the assigned certificate of ownership and application for title.

(3) For purposes of this rule:

(a) "Consumer" shall include any person, association, company, corporation or business entity.

(b) "Fleet" shall not include ten or more vehicles purchased by a consumer who has executed a lease agreement as lessor or intends to solicit a lease agreement as lessor of any such vehicles.

(c) "Lease agreement" shall not include a rental agreement executed in the normal course of the consumer's business.)

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-100 Subpoenas. (1) A party's request for a subpoena must be received by the arbitration board no later than fourteen calendar days prior to the arbitration hearing date. The board shall make a determination of whether the documents and records sought by the party are reasonably related to the dispute and notify the attorney general of the request within two (2) business days of receiving the request.

((1)) (2) A subpoena issued by the attorney general((; pursuant to chapter 19.118 RCW;)) shall identify the party causing the issuance of the subpoena, designate that the subpoena is issued by the attorney general pursuant to RCW 19.118.080, state the purpose of the proceeding, and ((shall)) command the person to whom it is directed to produce at the time and place set in the subpoena the designated documents or records under his or her control.

((2)) (3) ((A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the person, or by giving a copy of the subpoena, or by leaving such copy at the place of his or her abode. When service is made by any other person than an office authorized to serve process, proof of service shall be made by affidavit.)) Service of the subpoena may be made by certified mail, return receipt requested or by overnight express delivery.

((3)) (4) A person to whom a subpoena is directed may ((move to quash the subpoena)) submit a request to suspend or limit the terms of the subpoena to the board before the time specified in the subpoena for compliance. The ((motion to quash)) request must be accompanied by a short ((memorandum or)) statement setting forth the ((foun-

ation)) basis for the ((motion)) request. Upon ((motion)) requests made to the board, the board shall notify the party who requested the subpoena. The board shall immediately assign the request to be heard at the arbitration hearing or before an arbitration special master who may suspend or modify the subpoena. ((promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party who requested the subpoena, the arbitration special master may quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter at issue)).

((4) Any objection to the production of evidence shall be treated as a motion to quash to be decided by the arbitration special master.))

((5) If a nonparty fails to comply with a subpoena and upon an arbitrator finding that without such compliance there is insufficient evidence to render a decision in the dispute, the attorney general shall enforce such subpoena in superior court and the arbitrator shall continue the arbitration hearing until such time as the nonparty complies with the subpoena or the subpoena is quashed. The attorney general shall petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask for an order of the court to compel the production of relevant evidence for the arbitration hearing. The court upon such petition shall enter an order directing the person to appear before the court at a time and place to be fixed in such order and then and there to show cause why the person has not responded to the subpoena or has refused to comply. A copy of the order shall be served upon the person. If it appears to the court that the subpoena was properly issued, the court shall enter an order that the person appear at the time and place fixed in the order and produce the required evidence, and on failing to obey said order the person shall be dealt with as for contempt of court.))

((6) If a party fails to comply with the subpoena, the arbitrator may, at the outset of the arbitration hearing, impose any of the following sanctions:

(a) Find that the matters which were the subject of the subpoena, or any other designated facts, shall be taken to be established for purposes of the hearing in accordance with the claim of the party which requested the subpoena;

(b) Refuse to allow the disobedient party to support or oppose the designated claims or defenses, or prohibit that party from introducing designated matters into evidence;

(c) Strike claims or defenses, or parts thereof; or

(d) Render a decision by default against the disobedient party.))

((7)) ((The arbitration service shall have three business days from the receipt of the manufacturer's statement to determine whether to submit a request from itself or the parties, to the attorney general to issue a subpoena for the production of evidence.))

(5) A party or nonparty subject to the subpoena must comply or submit a ((motion to quash before the arbitration special master)) request to suspend or limit the subpoena within five business days of receipt of the subpoena. The request shall be heard within ((The arbitration special master

~~shall have~~) five business days to hear and rule on the request ~~((a motion to quash)). ((If the arbitration special master upholds a subpoena the party or nonparty shall have five business days to comply with the subpoena.))~~

(6) Where the arbitration special master upholds or modifies the subpoena, the responding person or party shall comply with the date set in the subpoena or within five business days, whichever is greater.

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

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-110 Scheduling of arbitration hearings. The ~~((arbitration service))~~ board has the authority to schedule the arbitration hearing at its discretion and shall notify the parties of the date, time and place by certified letter mailed at least ten calendar days prior to the hearing. Hearings may be scheduled during business hours, Monday through Thursday evenings, or Saturdays. If for any reason an arbitration hearing must be rescheduled, the board shall promptly notify the parties by mail or telephone.

AMENDATORY SECTION (Amending Order 89-2, filed 2/24/89)

WAC 44-10-120 Withdrawal. A consumer may withdraw a request for arbitration at any time.

A withdrawal shall be granted without prejudice, although upon notice to the board of withdrawal, the thirty month ((statute of limitations)) period in which the consumer must submit a request for arbitration shall resume running. A consumer who has withdrawn may resubmit the claim for arbitration. However, if the consumer withdraws the second request, the withdrawal shall be considered a withdrawal with prejudice and the consumer shall not be allowed to resubmit the claim for arbitration.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-130 Defaults. (1) A party who fails to appear at the arbitration hearing will be considered in default.

(2) If a manufacturer defaults the arbitrator shall hold the hearing. The arbitrator shall make a decision based on the evidence presented by the consumer, and any files or documentation contained in the record including the manufacturer's statement and other evidence or documentation submitted by the manufacturer.

(3) If the consumer defaults it shall be considered a withdrawal with prejudice of the ~~((claim))~~ request for arbitration. The hearing shall be canceled if the consumer defaults.

(4) The default shall be final unless within twenty-four hours of the hearing time, the manufacturer or consumer contacts the ~~((arbitration service))~~ board to request that the default be set aside. The request shall include evidence of an unforeseeable circumstance that resulted in the failure of the party to appear. Such request shall be considered by the arbitration special master who will hear arguments from both

parties on the request to set aside the default which may be conducted via telephone conference call. If the arbitration special master sets aside the default, a new hearing shall be scheduled within ten calendar days of the original hearing date, and the parties shall be informed of the new date and time at least five business days prior to the hearing date.

(5) If both parties default, the disposition of the case shall be handled as if only the consumer defaulted pursuant to WAC 44-10-130(3).

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-140 Representation ((by counsel)) of parties. (1) Any party to the arbitration hearing may be represented by counsel. If either party opts to be so represented, said party shall immediately notify the ~~((arbitration service))~~ board and the other party of the name and address of the attorney.

(2) The consumer may be represented by himself or herself or by legal counsel, but may not be represented by a nonattorney. However, a person, acting as an interpreter, may assist a party in the presentation of the case if such assistance is necessary because of a mental or physical handicap or language barrier which would preclude the party from adequately representing himself or herself.

(3) A manufacturer may be represented by legal counsel, authorized employee ~~((or designated representative))~~ or agent.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-150 ((Predecision)) ((s)) Settlement of dispute. (1) Both parties shall notify the board ~~((arbitration service and attorney general if the dispute is settled))~~ of a resolution for settlement of the dispute after the request for arbitration has been accepted by the arbitration board. The attorney general shall verify the terms of the settlement or resolution. ~~((to which the parties have agreed.))~~ The disclosure of terms is for statutorily required record keeping only. The settlement or agreement to otherwise resolve the dispute is not subject to approval by the ~~((arbitration service))~~ board or the attorney general.

(2) Notice of settlement or agreement to resolve the dispute shall be treated procedurally as if the consumer had withdrawn from the arbitration process, as set forth in WAC 44-10-120.

AMENDATORY SECTION (Amending WSR 90-19-24, filed 9/11/90)

WAC 44-10-160 Use of technical expert. (1) An adequate pool of automotive and motorcycle technical experts shall be maintained by the ~~((arbitration service))~~ board. A technical expert is assigned by the board to advise and consult with an ~~((for assignment as advisors and consultants to each))~~ arbitrator ~~((if such services are deemed necessary)).~~ Technical experts shall not be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle.

(2) Either party may request that a technical expert be assigned to a dispute. Such assignment, however, shall be

PERMANENT

at the discretion of ~~((the arbitrator or))~~ the ~~((arbitration service))~~ board. The ~~((arbitrator or the arbitration service))~~ board may upon their own volition assign a technical expert to a dispute. ~~((Any request for a technical expert must be made within a time frame that will allow for reasonable inspection by the expert.))~~

(3) If a technical expert is assigned to a dispute, and ~~((intends))~~ is requested by the arbitrator to perform an inspection of the vehicle, other than as part of the arbitration hearing ((prior to the hearing)), a notice of the time, date and location of the technical expert's inspection of the vehicle will be provided to both parties. This section does not confer a right, for either party, to be present during the inspection of the vehicle, however, either party may be present. Any written report or results of the expert's inspection shall be supplied to the parties as soon as it is available. The technical expert shall be present at the hearing or shall be available by telephone at the time of hearing, and may be examined by either party or the arbitrator.

~~((4) Said expert may be present as advisor and consultant at the arbitration hearing, if he or she has been requested to be present by the arbitrator or arbitration service.))~~

~~((5))~~ (4) The expert shall sign a written oath attesting to his or her impartiality prior to the commencement of each arbitration hearing to which he or she has been assigned.

REPEALER

WAC 44-10-165 Technical expert prehearing inspection report.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-170 Powers and duties of arbitrators.

(1) Arbitrators shall have the duty to conduct fair and impartial hearings, to take all necessary actions to avoid delay in the disposition of proceedings, to maintain order, and to meet the sixty day time frame required by RCW 19.118.090 for the rendering of a decision. They shall have all powers necessary to meet these ends including, but not limited to, the power:

(a) To consider any and all evidence offered by the parties which the arbitrator deems necessary to an understanding and determination of the dispute;

(b) To regulate the course of the hearings and the conduct of the parties, their representatives and witnesses;

(c) To schedule vehicle inspection by the technical experts, if deemed necessary, at such time and place as the arbitrator determines;

(d) To continue the arbitration hearing to a subsequent date if, at the initial hearing, the arbitrator determines that additional information is necessary in order ~~((for said arbitrator))~~ to render a fair and accurate decision. Such continuance shall be held within ten calendar days of the initial hearing;

(e) To impose sanctions ~~((or to continue a hearing))~~ for failure of a party ~~((or nonparty))~~ to comply with a subpoena pursuant to ~~((WAC 44-10-100))~~ RCW 19.118.080 (2)(b).

(2) The board shall maintain an adequate pool of trained arbitrators and is responsible for the assignment of arbitrators

to arbitration hearings. The selection and assignment of arbitrators is not subject to the approval of either party.

~~((2))~~ (3) Arbitrators must not have a personal interest in the outcome of any hearing, nor be acquainted with any of the participants except as such acquaintance may occur in the hearing process, nor hold any prejudice toward any party. Arbitrators shall not be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle. Arbitrators shall maintain their impartiality throughout the course of the arbitration proceedings.

(a) An arbitrator shall sign a written oath prior to the commencement of each arbitration hearing to which he or she has been assigned, attesting to his or her impartiality in that case.

(b) There shall be no direct communication between the parties and the arbitrators other than at the arbitration hearing. Any other oral or written communications between the parties and the arbitrators shall be channeled through the ~~((arbitration service))~~ board. Any prohibited contact shall be reported by the arbitrators to the ~~((arbitration service))~~ board and noted in the case record.

AMENDATORY SECTION (Amending Order 89-4, filed 7/24/89)

WAC 44-10-180 The arbitration hearing. (1) The conduct of the hearing shall encourage a full and complete disclosure of the facts.

(2) Arbitrators may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. ~~((A party, at the hearing or any time prior, may request that the arbitrator examine or ride in the vehicle. The arbitrator shall comply with such requests unless the arbitrator determines that such examination or ride is not reasonably practical, not reasonably safe, or not relevant to the issues to be considered at the hearing.))~~

(3) The consumer shall present his or her evidence and witnesses, then the manufacturer shall present its evidence and witnesses.

(4) Each party may question the other after each presentation, and may question each witness after testimony. The arbitrator may question any party or witness at any time.

(5) The arbitrator shall ensure that a tape recording record of the hearing is maintained.

(6) The arbitrator shall administer an oath or affirmation to each individual who testifies.

(7) The hearing procedure contemplates that both parties will be present. However, either party may offer written testimony only, as long as the ~~((arbitration service))~~ board and the other party are informed of such and are in receipt of that evidence prior to the day of the hearing.

(8) A party may request presentation of its case by telephone. ~~((Such request must demonstrate that it is unreasonable to require the requesting party to attend the hearing in person. The request shall be directed to the arbitration service and will be decided by the arbitration special master. If such request is granted the arbitration service shall immediately notify the other party. In such~~

cases, the party requesting the telephonic hearing shall pay all costs associated therewith, including but not limited to, costs for long distance calls, conference calls, and rental of telephone amplification equipment.)

~~((9) The arbitration service shall assign arbitrators to the pending cases. The choice of arbitrators is not subject to the approval of either party.~~

~~(10) Arbitrators must not have a personal interest in the outcome of any hearing, nor be acquainted with any of the participants except as such acquaintance may occur in the hearing process, nor hold any prejudice toward any party. Arbitrators shall not be directly involved in the manufacture, distribution, sale, or warranty service of any motor vehicle.)~~

AMENDATORY SECTION (Amending WSR 90-19-024, filed 9/11/90)

WAC 44-10-200 The arbitration decision. (1) The arbitration board shall send the decision to the parties in each case within sixty calendar days of acceptance of the request for arbitration:

(a) All decisions shall be written, in a form to be provided by the attorney general, dated and signed by the arbitrator, and sent by certified mail to ~~((both))~~ the parties ~~((and the attorney general));~~

(b) The date of mailing of the arbitration decision shall determine compliance with the sixty day requirement to issue an arbitration decision;

(c) The written decision shall contain findings of fact and conclusions of law as to whether the motor vehicle meets the statutory standards for refund or replacement;

(i) If the consumer prevails and has elected repurchase of the vehicle, the decision shall include the statutory calculations used to determine the monetary award ~~((as set forth in RCW 19.118.090, 19.118.041 and 19.118.021));~~

(ii) If the consumer prevails and has elected replacement of the vehicle, the decision shall ~~((include the information used to))~~ identify or describe a reasonably equivalent replacement vehicle and ~~((the))~~ any refundable incidental costs ~~((associated with such vehicle and a description of the vehicle as set forth in RCW 19.118.090, 19.118.041 and 19.118.021));~~

~~((iii))~~ (iii) If the consumer prevails, the decision shall include provisions for the return of the vehicle upon compliance by the manufacturer at a reasonable time and place;))

~~((iv))~~ (iii) If the consumer prevails and the manufacturer is represented by counsel, the decision shall include a description of the awarded reasonable costs and attorneys' fees incurred by the consumer in connection with board proceedings.

Reasonable costs and attorneys' fees shall be determined by the arbitrator based on an affidavit of costs and fees prepared by the consumer's attorney and submitted no later than the conclusion of the arbitration hearing. The affidavit may be amended for post-hearing costs and fees ~~((by the consumer's attorney within thirty days of the consumer's acceptance of the decision but in no case after a manufacturer's compliance with a decision))~~. The amended affidavit of costs and fees must be delivered to the manufacturer's designated representative by certified mail or personal service and a copy submitted to the arbitration board by the consumer's attorney within thirty days of the consumer's

acceptance of the decision but in no case after a manufacturer's compliance with a decision.

~~(2) Included with the copy of the arbitration decision sent to the consumer shall be a form to be completed by ((said)) the consumer, indicating acceptance or rejection of the decision. The board shall forward general information to the consumer explaining the consumer's right to appeal the decision to superior court. The consumer must return ((said)) the form to the ((arbitration service)) board within sixty calendar days from the date of the consumer's receipt of the decision. ((If the consumer has not responded within thirty days, the attorney general's office shall send a notice requesting a response and informing the consumer that failure to respond shall be deemed a rejection of the arbitration decision.))~~

~~(3) ((If the consumer rejects the decision, the arbitration service shall forward general information to the consumer explaining the consumer's right to appeal the decision to superior court.))~~ The consumer shall have one hundred twenty calendar days from the date of the rejection of the decision to file a petition of appeal in superior court. At the time of filing an appeal, the consumer shall deliver by certified mail or by personal service a conformed copy of the petition to the attorney general.

(4) If the consumer accepts ~~((the))~~ a decision which awards repurchase or replacement, the ~~((arbitration service))~~ board shall send a copy of the form completed by the consumer indicating acceptance ~~((notice of acceptance))~~ by certified mail to the manufacturer and shall include a manufacturer's intent form. ~~((The intent form shall be returned to the attorney general by the manufacturer within thirty calendar days, of the manufacturer's receipt of notice of consumer's acceptance and shall indicate whether the manufacturer intends to comply with the decision or appeal the decision to superior court.))~~

~~((5))~~ A verification of compliance form shall be sent to the consumer by the attorney general's office. The verification of compliance form shall be completed and returned to the attorney general by the consumer upon the manufacturer's compliance with the decision.

~~((6) After forty calendar days from the date of the notice of acceptance to the manufacturer, the attorney general shall determine whether the manufacturer has complied with the arbitration decision or appealed to superior court. If the manufacturer has not complied or appealed, the attorney general may impose fines authorized by RCW 19.118.090.))~~

AMENDATORY SECTION (Amending Order 88-2, filed 2/3/88)

WAC 44-10-210 Technical corrections. (1) The ~~((arbitration service or the attorney general))~~ board may make "technical corrections" to an ~~((arbitrator's))~~ arbitration decision. "Technical corrections" shall generally be defined as computational corrections, typographical corrections, or other minor corrections.

(2) A party may submit to the ~~((arbitration service))~~ board a written request for technical corrections ~~((in writing.))~~ setting forth the requested correction(s) and reason(s). Such request must be received by the ~~((arbitration~~

service)) board within ten calendar days of the mailing of the arbitrator's written decision.

NEW SECTION

WAC 44-10-221 Resale documents—Attorney general procedures. (1) When a vehicle has been determined by the New Motor Vehicle Arbitration Board, or has been adjudicated in a superior or appellate court of this state, as having one or more nonconformities or serious safety defects that have been subject to a reasonable number of attempts by the manufacturer to conform the vehicle to the warranty:

(a) The attorney general will provide the manufacturer with the "Lemon Law resale documents" necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with RCW 19.118.061 and applicable rules;

(b) The attorney general will provide the manufacturer with the required documents by certified mail at the conclusion of the period pursuant to RCW 19.118.090(9) for a manufacturer to file an appeal or upon notice from the manufacturer of receipt of the vehicle, whichever occurs first.

(2) When a vehicle is the subject of a "settlement" under chapter 19.118 RCW:

(a) the attorney general will provide the manufacturer with the "Lemon Law resale documents" necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with the RCW 19.118.061 and applicable rules;

(b) The attorney general will provide the manufacturer with the required documents by certified mail upon notice of the settlement by the parties.

(3) When a vehicle is the subject of final determination, adjudication or settlement under a "similar law of another state":

(a) The attorney general will provide the manufacturer, agent, motor vehicle dealer or other transferor with the resale documents necessary to resell or otherwise transfer the vehicle together with instructions regarding compliance with this section;

(b) The attorney general will provide the manufacturer, agent, motor vehicle dealer or other transferor with the resale documents by certified mail upon receiving a written request for Lemon Law resale documents, which includes a description of the defects or conditions causing the vehicle to be reacquired by the manufacturer.

NEW SECTION

WAC 44-10-222 Manufacturer duties upon receipt of a returned vehicle. The manufacturer must:

(1) Notify the attorney general's office and the department of licensing upon receipt of the vehicle from the consumer due to a determination, adjudication or settlement pursuant to chapter 19.118 RCW and chapter 44-10 WAC.

(2) Attach the "Lemon Law Resale Windshield Display", as provided by the attorney general, to the lower center of the front windshield of the vehicle in a manner so as to be readily visible from the exterior of the vehicle.

(3) Correct and warrant a serious safety defect.

(4) Notify the attorney general's office and the department of licensing of correction of a nonconformity or serious safety defect and execute a "Notice of Correction and Warranty" as provided by the attorney general.

NEW SECTION

WAC 44-10-223 Manufacturer, transferor and dealer duties prior to resale of a returned vehicle. After the manufacturer's receipt of a vehicle and prior to first subsequent retail transfer, sale or lease of a vehicle subject to the requirements of RCW 19.118.061:

(1) The manufacturer, agent or new motor vehicle dealer with actual knowledge of a determination, adjudication or settlement must deliver the Lemon Law resale documents with the vehicle to a wholesale or retail buyer, or transferor.

(2) The buyer or transferor should sign and date the acknowledgement of receipt of the Lemon Law resale documents on the "Lemon Law Resale Disclosure" in each wholesale transaction.

(3) An intervening transferor who receives the "Lemon Law Resale Disclosure" or "Notice of Correction and Warranty" is prohibited from transferring, selling, or leasing the vehicle without delivery of the "Lemon Law Resale Disclosure" and any "Notice of Correction and Warranty" with the vehicle to the next transferor, purchaser or lessee.

(4) The "Lemon Law Resale Windshield Display" can only be removed by the first subsequent retail purchaser or lessee of the motor vehicle who has signed the Lemon Law Resale Disclosure form.

REPEALER

WAC 44-10-220 Resale of motor vehicle determined or adjudicated as having a serious safety defect.

WAC 44-10-230 Resale of motor vehicle determined or adjudicated as having a nonconformity.

AMENDATORY SECTION (Amending WSR 91-02-080, filed 12/31/90)

WAC 44-10-300 Imposition of fine for manufacturer noncompliance with an arbitration decision. (1) Pursuant to RCW 19.118.090, the attorney general may impose a fine against a manufacturer if, after forty calendar days from the manufacturer's receipt of notice of consumer's acceptance of an arbitration decision, the manufacturer has not complied with the decision, notwithstanding any arbitration special master hearing or findings. Notice of the imposition of fine shall be to the manufacturer by certified mail or personal service.

(2) The attorney general may impose a fine against the manufacturer for noncompliance according to the following schedule for each day after the forty day calendar period:

DAYS 1 THROUGH 10	\$ 300.00 PER DAY
DAYS 11 THROUGH 20	\$ 500.00 PER DAY
DAYS 21 THROUGH 30	\$ 700.00 PER DAY
DAYS 31 AND ON	\$1000.00 PER DAY

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The foregoing fines shall accrue until the manufacturer complies or until one hundred thousand dollars has accrued, whichever occurs first.

AMENDATORY SECTION (Amending WSR 91-02-080, filed 12/31/90)

WAC 44-10-310 Request for review of imposition of fine. (1) The manufacturer shall have ten days from the date of receipt of notice of imposition of fine to request a review of imposition of fine by the attorney general. The manufacturer's request for review of imposition of fine shall be in writing and shall state the reasons for the manufacturer's noncompliance with the arbitrator's decision within the forty calendar day period.

(2) Upon receipt of a request for review of imposition of fine, the attorney general shall have ten days to conduct a review or request additional information from the parties or other persons regarding manufacturer noncompliance.

(3) The review shall be limited to determining whether the manufacturer has shown by clear and convincing evidence that any delay or failure of the manufacturer to comply within forty calendar days following the manufacturer's receipt of notice of consumer's acceptance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. No other issues shall be considered in the review.

(4) The attorney general shall issue a written review determination which shall be delivered to the manufacturer by certified mail or personal service.

(5) If the attorney general determines that the manufacturer's noncompliance was beyond the manufacturer's control or was acceptable to the consumer as evidenced by a written statement from the consumer, the imposition of fine shall be rescinded. The imposition of fine shall be affirmed by the attorney general where the manufacturer has failed to show clear and convincing evidence as required by WAC 44-10-310(3). If the imposition of fine is affirmed, the manufacturer shall be liable for a fine according to the schedule specified in WAC 44-10-300(2) including all days during the pendency of review under this section and until compliance with the arbitrator's decision or until one hundred thousand dollars has accrued, whichever comes first.

(6) If a fine is rescinded under WAC 44-10-310(5) the attorney general ~~(shall)~~ may impose a fine against ~~(a)~~ the manufacturer where ~~(a)~~ the manufacturer fails to comply with the agreement between the manufacturer and the consumer, or when the manufacturer fails to comply immediately after the circumstances no longer exist which made compliance beyond the control of the manufacturer. Notice of such fine shall be by certified mail or personnel service to the manufacturer and shall be imposed according to the schedule in WAC 44-10-300(2), and imposition of such fine ~~(may be appealed by)~~ is subject to review by the attorney general upon request of the manufacturer under WAC 44-10-310.

REPEALER

WAC 44-10-320 Failure by the manufacturer to pay a fine.

**WSR 96-04-002
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3941—Filed January 24, 1996, 1:24 p.m.]

Date of Adoption: January 24, 1996.

Purpose: Correct the incorrect payment standard amount for a seven person household for recipients of aid to families with dependent children (AFDC), refugee assistance (RA) and general assistance for pregnant women (GA-S).

Citation of Existing Rules Affected by this Order: Amending WAC 388-250-1400 Standards of assistance—Payment standards for aid to families with dependent children, refugee assistance, and general assistance for pregnant women programs.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 233.20 (a)(2).

Adopted under notice filed as WSR 96-01-062 on December 15, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 1, 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 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3729, filed 4/6/94, effective 5/7/94)

WAC 388-250-1400 Standards of assistance—Payment standards for aid to families with dependent children, refugee assistance, and general assistance for pregnant women programs. The statewide monthly payment standard for aid to families with dependent children, refugee assistance, and general assistance for Pregnant women programs shall be as follows:

(1) Effective January 1, 1993, the department shall determine the statewide monthly payment standard for a household with an obligation to pay for shelter to be:

Recipients in Household	Payment Standard
1	\$ 349
2	440
3	546
4	642
5	740

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6	841
7	((941)) 971
8	1,075
9	1,180
10 or more	1,283

(2) Effective January 1, 1993, the department shall determine the payment standard for a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Payment Standard
1	\$ 212
2	268
3	332
4	391
5	451
6	511
7	591
8	654
9	718
10 or more	780

WSR 96-04-003
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 24, 1996, 2:22 p.m.]

Date of Adoption: December 13, 1995.

Purpose: To codify the department's definition of "uniformed fire fighter."

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 95-22-082 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 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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 1996
 Sheryl Wilson
 Director

NEW SECTION

WAC 415-104-0125 Uniformed fire fighter position—Definition. "Uniformed fire fighter position" means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed fire fighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

WSR 96-04-004
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 25, 1996, 9:10 a.m.]

Date of Adoption: January 24, 1996.

Purpose: The rule making is to rescind rules previously adopted by WSR 95-13-058.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-030, 308-93-070, 308-94-030, and 308-96A-035.

Statutory Authority for Adoption: RCW 46.01.110 and 88.02.100.

Other Authority: RCW 46.10.040, 46.12.030, 46.16.040, 88.02.050, and 88.02.070.

Adopted under notice filed as WSR 95-23-060 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 4, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 4, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 4, 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, 1995 [1996]
 Kathy Baros Friedt
 Director

AMENDATORY SECTION (Amending WSR 95-13-058, filed 6/19/95, effective 7/20/95)

WAC 308-56A-030 Form required for name and address. The application for certificate of ownership shall indicate the names and addresses of the registered and legal owners of the vehicle, including lessees and lessors, and ~~((upon request))~~ each owner's ~~((Social Security number, date of birth, and))~~ department assigned customer account number. The names indicated shall be the names of the owners in the form in which the person wishes his/her

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interests to be reflected. The owner's names reflected on the certificate of registration are identical with the name shown on the certificate of ownership.

AMENDATORY SECTION (Amending WSR 95-13-058, filed 6/19/95, effective 7/20/95)

WAC 308-93-070 Application for title/registration.

(1) An application for certificate of ownership or registration of a vessel shall be completed and shall include:

(a) The names, addresses, ~~((Social Security number, date of birth,))~~ and ~~((the))~~ department assigned customer account numbers ~~((upon request,))~~ for all owners of the vessel being registered including lessees and lessors, and legal owners if applicable.

(b) Make, model year and length of vessel.

(c) Type of power (gasoline, diesel, propane, other, etc.).

(d) Primary use.

(e) Primary method of propulsion (inboard, outboard, inboard/outboard, jet, sail, other, etc.).

(f) Type of vessel (open, cabin, house, or other).

(g) Primary vessel construction (fiberglass, wood, aluminum, etc.).

(h) County of moorage.

(i) United States Coast Guard issued number, if any.

(j) Purchase price and purchase year of vessel or declared value and year of declaration. Purchase price includes the price purchaser paid for the vessel, vessel motor, or engine, and all other equipment and accessories, excluding boat trailers, purchased in a single transaction.

(k) Hull identification number.

(l) Vessel registration numbers previously issued by any issuing authority, if any.

(m) That the application is for a new number, renewal or transfer of ownership.

(n) State in which vessel is or will be principally used.

(o) United State Coast Guard document number, if applicable.

(2) Name and address of all persons perfecting a security interest (legal owner), except for United States Coast Guard documented vessels, or a certified statement by the registered owner that the vessel is free of all liens.

(3) In the event a vessel is homemade, the registered owner must complete and sign a declaration of value form.

(4) The names of all owners will appear on the application for registration and title. The application must be signed by all registered owner applicants. Signature must be notarized or certified by an authorized license agent.

(5) The application for certificate of ownership or registration shall be accompanied by the following where applicable:

(a) A copy of the bill of sale or sales agreement.

(b) Declaration of value form.

(c) All proper fees and excise tax.

(d) Previous ownership document properly released.

(e) Excise exemption affidavit.

(f) Proof of sales tax paid.

(g) Manufacturer's statement of origin or original factory invoice.

(h) Copy of carpenter certificate.

(i) Release of interest form.

(j) Other verification of ownership.

(k) Copy of certificate of ownership of vessel issued by United States Coast Guard.

(6) An application made for a vessel to be leased or rented without propulsion machinery will indicate "other" for type of power in subsection (1)(c) of this section and for primary method of propulsion in subsection (1)(e) of this section.

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

AMENDATORY SECTION (Amending WSR 95-13-058, filed 6/19/95, effective 7/20/95)

WAC 308-94-030 Application for registration. An application for registration of a snowmobile shall include:

(1) Name and address, ~~((Social Security number, date of birth,))~~ and ~~((the))~~ department assigned customer account number upon request, of each registered and legal owner(s);

(2) Make and model year of snowmobile;

(3) Method of propulsion, including but not limited to skis, tracks, wheels or combination thereof;

(4) Purchase price and year of purchase or declared value and year of declaration;

(5) Proof of payment of sales tax or a bill of sale establishing the price paid for the vehicle;

(6) The previously issued registration certificate or a duplicate thereof, or a bill of sale if the application is for the transfer of a registered snowmobile. If the snowmobile has not been previously registered in this state, a bill of sale or a purchase agreement shall be provided;

(7) Vehicle identification number; and

(8) Appropriate fees.

AMENDATORY SECTION (Amending WSR 95-13-058, filed 6/19/95, effective 7/20/95)

WAC 308-96A-035 Annual license renewal. (1)

When a registered owner wishes to make a change to the information pertaining to the vehicle or their owner address, or if a prebill was not received, application shall be made by mailing or appearing in person at any of the vehicle licensing offices to effect such change or to renew the registration.

(2) The applicant must satisfy the licensing agent as to his/her identity by at least one of the following:

(a) A valid Washington state driver's license;

(b) A valid Washington state identicard;

(c) A photo identification card; or

(d) In the event the above are not available, two of the following:

(i) A nationally or regionally known credit card containing the signature of the applicant;

(ii) An identification card issued by the United States, any state, or any agency of either, of a kind commonly used to identify the members or employees of such government agencies (including military ID cards) and which contain the signature of the applicant;

(iii) Any certificate or other document issued by any governmental agency commonly used for the purpose of establishing identities; or

(iv) Such other documentary evidence as in the opinion of the licensing agency clearly establishes the identity of the applicant.

(3) Nothing in this regulation shall be construed as prohibiting a member of the immediate family of the registered owner to effect such renewal, if he/she is able to prove his/her identity and relationship to the registered owner.

(4) When making application for annual license renewal, the applicant shall provide additional information as may be requested by the department. Additional information may include but is not limited to all legal and registered owner's ((Social Security number, date of birth, and the)) department assigned customer account number.

WSR 96-04-005
PERMANENT RULES
POLLUTION LIABILITY
INSURANCE AGENCY
 [Filed January 25, 1996, 11:31 a.m.]

Date of Adoption: January 25, 1996.

Purpose: The purpose of the amendment to WAC 374-60-030 is to define decisions which may be appealed and to establish a time limit for appeals. The purpose of the amendment to WAC 374-60-120 is to eliminate the requirement for annual visits to the UST site of each grant recipient.

Citation of Existing Rules Affected by this Order:
 Amending WAC 374-60-030 and 374-60-120.

Statutory Authority for Adoption: Chapter 70.148 RCW.

Adopted under notice filed as WSR 96-01-102 on December 19, 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 25, 1996

James M. Sims

Director

AMENDATORY SECTION (Amending WSR 91-24-048, filed 11/27/91, effective 12/28/91)

~~WAC 374-60-030 Appeals. ((An applicant may appeal a decision made under the UST community assistance program to the director. The director shall conduct an adjudicative hearing proceeding under chapter 34.05 RCW.~~

~~(1990 e 383, 9; e 383, 9-)) (1) An applicant may appeal any of the following listed decisions under the UST community assistance program to the director:~~

~~(a) Agency's denial of a grant application;~~

~~(b) The amount of the grant contribution allowed by the agency;~~

~~(c) Denial by the agency of a request for payment of certain costs related to the grant;~~

~~(d) Agency's refusal to sign a subordination agreement;~~

~~(e) Agency's refusal to allow an assignment of the grant agreement and deed of trust;~~

~~(f) Agency's determination of the amount of the reimbursement due in the case of a forfeiture and/or a buy out agreement; and~~

~~(g) Agency's decision to terminate or suspend the grant agreement.~~

(2) An applicant shall file his or her request for an appeal within thirty calendar days after the date of mailing of the letter containing the decision of the director. The appeal shall be conducted as an adjudicative hearing proceeding under chapter 34.05 RCW.

AMENDATORY SECTION (Amending Order 93-01, filed 1/27/93, effective 2/27/93)

WAC 374-60-120 Grant management. (1) Successful applicants will be notified by letter of the award of a grant. Entitlement to a grant is finalized only after a contract has been finalized between the agency and the grant recipient, and a contract has been finalized between the grant recipient and the contractor performing the replacement or upgrading of the UST(s).

(a) Contracts may be entered only after all program eligibility requirements have been met, funds are available and the application and evaluation process has been completed to the satisfaction of the agency.

(b) Each contract becomes effective only with the signing of both required contracts. The day of the signing establishes the beginning date of the project. No costs incurred prior to that date are eligible for payment under the grant unless specific provision is made in the grant contract for such costs.

(2) The contract between the agency and a private owner and/or operator shall contain:

(a) An agreement assuring the state of Washington that the business, including the UST site, will be maintained for the retail sale of petroleum products to the public for at least fifteen (15) years after the grant is awarded;

(b) An agreement to sell petroleum products to local governmental entities on a cost-plus basis;

(c) An agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology;

(d) An agreement awarding the state of Washington a real property lien ensuring repayment of grant funds should any of the above conditions be violated. Such lien is to be binding on all heirs, successors or assignees of the grantee; and

(e) An agreement that should the grantee or any successor fail to adhere to all the terms of the contract through willful act, the amount of the grant shall immediately become due and payable to the state of Washington.

(3) The contract between the agency and a local government shall contain an agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology.

(4) The contract between the agency and a rural hospital shall contain:

(a) An agreement to comply with all technical and financial responsibility regulations of the U.S. Environmental Protection Agency and the department of ecology; and

(b) An agreement to provide charity care in a dollar amount equivalent to the financial assistance provided under the underground storage tank community assistance program. The period of time for the charity care to be accomplished will be established by the agency in consultation with the department of health, but will not exceed fifteen years.

(5) Contracts between the grantees and contractors shall contain terms covering payments, conditions of work and contaminated soil and water remediation procedures.

(6) If the grantee elects pollution liability insurance as the method for meeting financial responsibility, the insurance policy must name the pollution liability insurance agency as a "loss payee." If another method of demonstrating financial responsibility is selected, there must exist a provision for the agency to place an appropriate encumbrance on that document.

(7) Annually, the local government entity that certified the vital local government, public health, education or safety need of the UST(s) must report, on a form provided by the agency, the status of contracts and services.

(8) Quarterly, a private owner or operator that receives a grant must submit a report, on a form provided by the agency, of petroleum business volume and what local government contracts are currently in effect.

(9) Annually, a rural hospital that has received a grant will report to the agency the amount of charity care provided and the dollar value of that care.

(10) At the conclusion of the fifteen-year agreement, the agency will sign a release of any claim on the real property named in the original contract between the grantee and the agency. The responsibility for removing the lien will rest with the current property owner of record.

~~((11) At least annually, a representative of the agency will visit the UST site of each grantee to verify adherence to contractual obligations.))~~

WSR 96-04-010

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 94-37—Filed January 26, 1996, 10:10 a.m.]

Date of Adoption: January 26, 1996.

Purpose: The purpose of the rule amendment is to make the Model Toxics Control Act regulation consistent with statutory changes made in the 1994 legislative session which redefined property and authorizes broader use of agreed orders.

Citation of Existing Rules Affected by this Order: Amending WAC 173-340-200, 173-340-440, 173-340-530, 173-340-700, 173-340-706, 173-340-740, and 173-340-745.

Statutory Authority for Adoption: Chapter 70.105D RCW.

Adopted under notice filed as WSR 95-22-069 on October 30, 1995.

Changes Other than Editing from Proposed to Adopted Version: WAC 173-340-200, changed definition of industrial property, zoning; and deleted proposed definition of commercial property.

WAC 173-340-440, added state land records to example alternative mechanisms; added lease notification/land use requirements to covenants; and changed local government notification to include sending a copy of the executed deed restriction and to address independent cleanup notification requirements.

WAC 173-340-700, deleted references to commercial sites.

WAC 173-340-706, deleted references to commercial sites.

WAC 173-340-740, deleted changes expanding allowed use of commercial soil cleanup standards; deleted changes to recreational, agricultural, and silvicultural land use cleanup standards; changed terminology from "site" to "property"; and changed table statement regarding cleanup standards for substances not on table.

WAC 173-340-745, simplified criteria for evaluating land uses for compliance with industrial property definition and added additional explanation on the use of these criteria; deleted transition zone concept and 300 ft. presumption. Changed criteria and discussion for evaluation of off-property threats to reflect these deletions; changed expectation statements to reflect other changes in section; and changed table statement regarding cleanup standards for substances not on table.

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 7, 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 7, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 26, 1996

Mary Riveland

Director

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-200 Definitions. For the purpose of this chapter, the following definitions shall apply:

"Act" means the same as the "Model Toxics Control Act" and "chapter 70.105D RCW."

"Acute toxicity" means the ability of a hazardous substance to cause injury or death to an organism as a result of a short-term exposure to a hazardous substance.

"Agreed order" means an order issued by the department under WAC 173-340-530 with which the potentially liable person receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide eligibility for public funding of remedial actions under RCW 70.105D.070 (2)(d)(xi).

"All practicable methods of treatment" means all technologies and/or methods currently available and demonstrated to work under similar site circumstances or through pilot studies, and applicable to the site at reasonable cost. These include "all known available and reasonable methods of treatment" (AKART) for discharges or potential discharges to waters of the state, and "best available control technologies" for releases of hazardous substances into the air resulting from cleanup actions.

"Applicable state and federal laws" means all legally applicable requirements and those requirements that the department determines, based on the criteria in WAC 173-340-710(3), are relevant and appropriate requirements.

"Area background" means the concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

"Bioconcentration factor" means the ratio of the concentration of a hazardous substance in the tissue of an aquatic organism divided by the hazardous substance concentration in the ambient water in which the organism resides.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogen Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Carcinogenic potency factor" or "CPF" means the upper 95th percentile confidence limit of the slope of the dose-response curve and is expressed in units of (mg/kg-day)⁻¹. When derived from human epidemiological data, the carcinogenic potency factor may be a maximum likelihood estimate.

"Chronic reference dose" means an estimate (with an uncertainty spanning an order of magnitude or more) of a daily exposure level for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of adverse effects during a lifetime.

"Chronic toxicity" means the ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

"Cleanup" means the implementation of a cleanup action or interim action.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-360.

"Cleanup action plan" means the document prepared by the department under WAC 173-340-360 which selects the cleanup action and specifies cleanup standards and other requirements for the cleanup action.

"Cleanup level" means the concentration of a hazardous substance in soil, water, air, or sediment that is determined to be protective of human health and the environment under specified exposure conditions.

"Cleanup process" means the process for identifying, investigating, and cleaning up hazardous waste sites under chapter 70.105D RCW.

"Cleanup standards" means the standards promulgated under RCW 70.105D.030 (2)(d). Establishing cleanup standards requires specification of the following:

Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

The location on the site where those cleanup levels must be attained ("points of compliance"); and

Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established following the selection of a specific cleanup action.

"Closure site assessment" means a site assessment required for closure of an underground storage tank pursuant to rules adopted under chapter 90.76 RCW.

"Compliance monitoring" means a remedial action that consists of monitoring as described in WAC 173-340-410.

"Containment" means a container, vessel, barrier, or structure, whether natural or constructed, which confines a hazardous substance within a defined boundary and prevents or minimizes its release into the environment.

"Contaminant" means any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

"Curie" means the measure of radioactivity defined as that quantity of radioactive material which decays at the rate of 3.70×10^{10} transformations per second. This decay rate is nearly equivalent to that exhibited by 1 gram of radium in equilibrium with its disintegration products.

"Day" means calendar day; however, any document due on the weekend or a holiday may be submitted on the first working day after the weekend or holiday.

"Decree" means consent decree under WAC 173-340-520. "Consent decree" is synonymous with decree.

"Department" means the department of ecology.

"Developmental reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of an exposure level for the human population, including sensitive subgroups, that is likely to be without an appreciable risk of developmental effects.

"Direct contact" means exposure to hazardous substances through ingestion or dermal contact.

"Director" means the director of ecology or the director's designee.

"Environment" means any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air within the state of Washington or under the jurisdiction of the state of Washington.

"Exposure" means subjection of an organism to the action, influence, or effect of a hazardous substance (chemical agent) or physical agent. Exposure is quantified as the amount of the agent available at the exchange boundaries (e.g., skin, lungs, gut) and available for absorption.

"Exposure parameters" means those parameters used to derive an estimate of the exposure to a hazardous substance.

"Exposure pathway" means the path a hazardous substance takes or could take from a source to an exposed organism. An exposure pathway describes the mechanism by which an individual or population is exposed or has the potential to be exposed to hazardous substances at or originating from a site. Each exposure pathway includes an actual or potential source or release from a source, an exposure point, and an exposure route. If the exposure point differs from the source of the hazardous substance, the exposure pathway also includes a transport/exposure medium.

"Facility" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Federal cleanup law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., as presently promulgated or as subsequently amended or repromulgated.

"Fish diet fraction" means the percentage of the total fish or shellfish in an individual's diet that is obtained or has the potential to be obtained from the site.

"Food crop" means any domestic plant which is produced for the purpose of, or may be used in whole or in part for, consumption by people or livestock. This shall include nursery, root, or seedstock to be used for the production of food crops.

"Free product" means a hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

"Ground water" means water in a saturated zone or stratum beneath the surface of land or below a surface water.

"Hazard index" means the sum of two or more hazard quotients for multiple hazardous substances and/or multiple exposure pathways.

"Hazardous sites list" means the list of hazardous waste sites maintained under WAC 173-340-330.

"Hazardous substance" means any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste as designated by rule under chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under chapter 70.105

RCW; any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C., Sec. 9601(14); petroleum or petroleum products; and any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Hazard quotient" or "HQ" means the ratio of the dose of a single hazardous substance over a specified time period to a reference dose for that hazardous substance derived for a similar exposure period.

"Highest beneficial use" means the beneficial use of a resource generally requiring the highest quality in the resource. For example, for many hazardous substances, providing protection for the beneficial use of drinking water will generally also provide protection for a great variety of other existing and future beneficial uses of ground water.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or decree.

"Indicator hazardous substances" means the subset of hazardous substances present at a site selected under WAC 173-340-708 for monitoring and analysis during any phase of remedial action for the purpose of characterizing the site or establishing cleanup requirements for that site.

"Industrial properties" means properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

- Zoned for industrial use by a city or county conducting land use planning under chapter 36.70A RCW (Growth Management Act); or
- For counties not planning under chapter 36.70A RCW (Growth Management Act) and the cities within them, zoned for industrial use and adjacent to properties currently used or designated for industrial purposes.

See WAC 173-340-745 for additional criteria to determine if a land use not specifically listed in this definition would meet the requirement of "traditional industrial use" and for evaluating if a land use zoning category meets the requirement of being "zoned for industrial use."

"Inhalation correction factor" means a multiplier that is used to adjust exposure estimates based on ingestion of drinking water to take into account exposure to hazardous substances which are volatilized and inhaled during use of the water.

"Initial investigation" means a remedial action that consists of an investigation under WAC 173-340-310 to determine that a release or threatened release may have occurred that warrants further action under this chapter.

"Institutional control" means a measure undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at the site.

"Integrated risk information system" or "IRIS" means a data base developed by the United States Environmental Protection Agency which provides a summary of information on hazard identification and dose-response assessment for specific hazardous substances.

"Interim action" means a remedial action conducted under WAC 173-340-430 that partially addresses the cleanup of a site.

"Interspecies scaling factor" means the conversion factor used to take into account differences between animals and humans.

"Legally applicable requirements" means those cleanup standards, standards of control, and other human health and environmental protection requirements, criteria, or limitations promulgated under state or federal law that specifically address a hazardous substance, cleanup action, location, or other circumstances at the site.

"Lowest observed adverse effect level" or "LOAEL" means the lowest concentration of a hazardous substance at which there is a statistically or biologically significant increase in the frequency or severity of an adverse effect between a population and a control group.

"Mail" means delivery through the United States Postal Service or an equivalent method of delivery or transmittal, including private mail carriers, or personal delivery.

"Maximum contaminant level" or "MCL" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated.

"Maximum contaminant level goal" or "MCLG" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated, for which no known or anticipated adverse effects on human health occur, including an adequate margin of safety.

"Method detection limit" or "MDL" means the minimum concentration of a compound that can be measured and reported with 99% confidence that the value is greater than zero.

"Millirem" or "mrem" means the measure of the dose of any radiation to body tissue in terms of its estimated biological effect relative to a dose received from an exposure to one roentgen (R) of x-rays. One millirem equals 0.001 rem.

"Mixed funding" means any funding provided to potentially liable persons from the state toxics control account under WAC 173-340-560.

"Model Toxics Control Act" or "act" means the act approved by the voters at the November 1988 general election, also known as Initiative 97 (chapter 70.105D RCW).

"Natural background" means the concentration of hazardous substance consistently present in the environment which has not been influenced by localized human activities. For example, several metals naturally occur in the bedrock and soils of Washington state due solely to the geologic processes that formed these materials and the concentration of these metals would be considered natural background. Also, low concentrations of some particularly persistent organic compounds such as polychlorinated biphenyls (PCBs) can be found in surficial soils and sediment throughout much of the state due to global use of these hazardous substances. These low concentrations would be considered natural background. Similarly, concentrations of various radionuclides which are present at low concentrations throughout the state due to global distribution of fallout from bomb testing and nuclear accidents would be considered natural background.

"Natural person" means any unincorporated individual or group of individuals. The term "individual" is synonymous with "natural person."

"No observed adverse effect level" or "NOAEL" means the exposure level at which there are no statistically or biologically significant increases in frequency or severity of adverse effects between the exposed population and its appropriate control; some effects may be produced at this level, but they are not considered to be adverse, nor precursors to specific adverse effects.

"Null hypothesis" means an assumption about hazardous substance concentrations at a site when evaluating compliance with cleanup levels established under this chapter. The null hypothesis is that the site is contaminated at concentrations which exceed cleanup levels. This shall not apply to cleanup levels based on background concentrations.

"Order" means an enforcement order issued under WAC 173-340-540 or an agreed order issued under WAC 173-340-530.

"Owner or operator" means any person with any ownership interest in the facility or who exercises any control over the facility; or in the case of an abandoned facility, any person who had owned, or operated, or exercised control over the facility any time before its abandonment. The term does not include:

An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; or

A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility.

"PAHs (carcinogenic)" means those PAHs substances identified as A (known human) or B (probable human)

carcinogens by the United States Environmental Protection Agency. These include benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene.

"Permanent solution" means a cleanup action in which cleanup standards of WAC 173-340-700 through 173-340-760 can be met without further action being required at the site being cleaned up or any other site involved with the cleanup action, other than the approved disposal of any residue from the treatment of hazardous substances.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

"Picocurie" or "pCi" means 10⁻¹² curie.

"Point of compliance" means the point or points where cleanup levels established in accordance with WAC 173-340-720 through 173-340-760 shall be attained.

"Polychlorinated biphenyls" or "PCB mixtures" means those aromatic compounds containing two benzene nuclei with two or more substituted chlorine atoms. For the purposes of this chapter, PCB includes those congeners which are identified using the appropriate analytical methods as specified in WAC 173-340-830.

"Polycyclic aromatic hydrocarbons" or "PAH" means those hydrocarbon molecules composed of two or more fused benzene rings. For the purpose of this chapter, PAH includes those compounds which are identified and quantified using the appropriate analytical methods as specified in WAC 173-340-830. The specific compounds generally included are acenaphthene, acenaphthylene, fluorene, naphthalene, anthracene, fluoranthene, phenanthrene, benzo[a]anthracene, benzo[b]fluoranthene, benzo[k]fluoranthene, pyrene, chrysene, benzo[a]pyrene, dibenzo[a,h]anthracene, indeno[1,2,3-cd]pyrene, and benzo[ghi]perylene.

"Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Practicable" means (except when used in the phrase "permanent to the maximum extent practicable" which is defined in WAC 173-340-360(5)) capable of being designed, constructed and implemented in a reliable and effective manner including consideration of cost. When considering cost under this analysis, an alternative shall not be considered practicable if the incremental cost of the alternative is substantial and disproportionate to the incremental degree of protection provided by the alternative over other lower cost alternatives.

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions, using department approved methods.

"Public notice" means, at a minimum, adequate notice mailed to all persons who have made a timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

"Public participation plan" means a plan prepared under WAC 173-340-600 to encourage coordinated and effective

public involvement tailored to the public's needs at a particular site.

"Rad" means that quantity of ionizing radiation that results in the absorption of 100 ergs of energy per gram of irradiated material, regardless of the source of radiation.

"Radionuclide" means a type of atom which spontaneously undergoes radioactive decay. Radionuclides are hazardous substances under the act.

"Recovery by-products" means any hazardous substance, water, sludge or other materials collected in the free product removal process in response to a release from an underground storage tank.

"Reasonable maximum exposure" means the highest exposure that can be reasonably expected to occur for a human or other living organisms at a site under current and potential future site use.

"Reference dose" or "RFD" means a benchmark dose, derived from the NOAEL or LOAEL for a hazardous substance by consistent application of uncertainty factors used to estimate acceptable daily intake doses and an additional modifying factor, which is based on professional judgment when considering all available data about a substance, expressed in units of milligrams per kilogram body weight per day. This includes chronic reference doses, subchronic reference doses, and developmental reference doses.

"Regional office" means one of the regional offices of the department of ecology.

"Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

"Relevant and appropriate requirements" means those cleanup standards, standards of control, and other human health and environmental requirements, criteria, or limitations established under state and federal law that, while not legally applicable to the hazardous substance, cleanup action, location, or other circumstance at a site, the department determines address problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site. The criteria specified in WAC 173-340-710(3) shall be used to determine if a requirement is relevant and appropriate.

"Rem" means the unit of radiation dose equivalent that is the dosage in rads multiplied by a factor representing the different biological effects of various types of radiation.

"Remedy" or "remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Restoration time frame" means the period of time needed to achieve the required cleanup levels at the points of compliance established for the site.

"Risk" means the probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

"Routine cleanup action" means a remedial action that consists of a cleanup action meeting the requirements in WAC 173-340-130(7).

"Safety and health plan" means a plan prepared under WAC 173-340-810.

"Sample mean" means the arithmetic mean or the average of a set of measurements. The arithmetic mean is defined as the sum of all measurements divided by the number of measurements.

"Sampling and analysis plan" means a plan prepared under WAC 173-340-820.

"Saturated zone" means the area below the water table in which all interstices are filled with water.

"Schools" means preschools, elementary schools, middle schools, high schools, and similar facilities, both public and private, used primarily for the instruction of minors.

"Science advisory board" means the advisory board established by the department under RCW 70.105D.030(4).

"Secondary maximum contaminant level" means the maximum concentration of a secondary contaminant in water established by the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in 40 C.F.R. 143 as presently promulgated or as subsequently amended or repromulgated.

"Sensitive environment" means an area of particular environmental value, where a release could pose a greater threat than in other areas including: Wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

"Site" means the same as facility.

"Site characterization report" means a written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450 (4)(b).

"Site check" means the investigation conducted pursuant to rules adopted under chapter 90.76 RCW in order to confirm a release from an underground storage tank.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Site register" means the public information document described in WAC 173-340-600.

"Soil" means a mixture of organic and inorganic solids, air, water, and biota which exists on the earth's surface above bedrock, including materials of anthropogenic sources such as slag, sludge, etc.

"State remedial investigation/feasibility study" means a remedial action that consists of activities performed under WAC 173-340-350 to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup plan under WAC 173-340-360.

"Status report" means a written or verbal report on the status of the interim actions taken in response to a release from an underground storage tank, as described in WAC 173-340-450 (4)(b).

"Subchronic reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of a daily exposure level for the human population, including sensitive

subgroups, that is likely to be without appreciable risk of adverse effects during a portion of a lifetime.

"Surface water" means lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the state of Washington or under the jurisdiction of the state of Washington.

"Technically possible" means capable of being designed, constructed and implemented in a reliable and effective manner, regardless of cost.

"Total excess cancer risk" means the upper bound on the estimated excess cancer risk associated with exposure to multiple hazardous substances and multiple exposure pathways.

"Total petroleum hydrocarbons" or "TPH" means any fraction of crude oil that is contained in plant condensate, crankcase motor oil, gasoline, aviation fuels, kerosene, diesel motor fuel, benzol, fuel oil, and other products derived from the refining of crude oil. For the purposes of this chapter, TPH will generally mean those fractions of the above products that are quantified by EPA Methods 8015 or 418.1 as appropriate or other test methods approved by the department.

"Type I error" means the error made when it is concluded that an area of a site is below cleanup levels when it actually exceeds cleanup levels. This is the rejection of a true null hypothesis.

"Underground storage tank" or "UST" means an underground storage tank and connected underground piping as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank operator" means any underground storage tank operator as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank owner" means any underground storage tank owner as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank release" means a confirmed release from an underground storage tank pursuant to the rules adopted under chapter 90.76 RCW.

"Unrestricted site use conditions" means restrictions on the use of the site or natural resources affected by releases of hazardous substances from the site are not required to ensure continued protection of human health and the environment.

"Upper bound on the estimated excess cancer risk of one in one hundred thousand" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one hundred thousand individuals.

"Upper bound on the estimated excess cancer risk of one in one million" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one million individuals.

"Volatile organic compound" means those carbon-based compounds listed in EPA methods 601, 602, 603, 624, 8010, 8015, 8020, 8030, 8240, 502.1, 502.2, 503.1, 524.1, 524.2, and those with similar vapor pressures or boiling points.

"Wastewater facility" means all structures and equipment required to collect, transport, treat, reclaim, or dispose of domestic, industrial, or combined domestic/industrial wastewaters.

"Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or

near the surface or the land is covered by shallow water. For the purposes of this classification, wetlands must have one or more of the following attributes at least periodically, the land supports predominantly hydrophytes; the substrate is predominately undrained hydric soil; and the substrate is nonsoil and saturated with water or covered by shallow water at some time during the growing season each year.

"Zoned for (a specified) use" means the use is allowed as a permitted or conditional use under the local jurisdiction's land use zoning ordinances. A land use that is inconsistent with the current zoning but allowed to continue as a nonconforming use or through a comparable designation is not considered to be zoned for that use.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-440 Institutional controls. (1) Purpose. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of an interim action or cleanup action or result in exposure to hazardous substances at a site. Such measures shall be required to assure both the continued protection of human health and the environment and the integrity of an interim action or cleanup action in the following circumstances:

(a) Where a cleanup action results in residual concentrations of hazardous substances which exceed method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760; or

(b) If conditional points of compliance have been established; or

(c) When the department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action.

(2) Institutional controls shall not be used as a substitute for cleanup actions that would otherwise be technically possible.

(3) Institutional controls include:

(a) Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and

(b) Legal and administrative mechanisms ~~((used))~~ to limit site use or activities and/or to ensure that ~~((such))~~ any physical measures are maintained over time. Examples of limits on site use activities include restricting the use of a property for industrial or commercial purposes or other specified land uses, or placing restrictions on activities such as disturbing a cap or using the ground water. Examples of maintenance activities include, inspection and repair of monitoring wells, treatment systems, caps or ground water barrier systems.

(4) Format.

(a) For properties owned by ~~((the))~~ a person who has been named as a potentially liable person or who has not been named as a potentially liable person by the department but meets the criteria in RCW 70.105D.040 for being named as a potentially liable ~~((parties))~~ person, appropriate institutional controls shall be described in a restrictive covenant on the

property. The covenant shall be executed by the property owner and recorded with the register of deeds for the county in which the site is located. This restrictive covenant shall run with the land, and be binding on the owner's successors and assigns.

(b) For ~~((other))~~ properties containing hazardous substances where the owner does not meet the criteria in RCW 70.105D.040 for being a potentially liable person, the department may approve cleanup actions which include restrictive covenants or other legal and/or administrative mechanisms. The use of legal or administrative mechanisms which do not include restrictive covenants is intended to apply to situations where the release has affected properties near the source of the release not owned by a person potentially liable under the act. Examples of such mechanisms include zoning overlays, placing notices in local zoning or building department records or state lands records, public notices and educational mailings.

(5) Where required, the restrictive covenant shall:

(a) Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment;

(b) Prohibit activities that may result in the release of a hazardous substance which was contained as a part of the cleanup action;

(c) Require notice to the department of the owner's intent to convey any interest in the site. No conveyance of title, easement, lease, or other interest in the property shall be consummated by the property owner without adequate and complete provision for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection;

(d) Require the land owner to restrict leases to uses and activities consistent with the restrictive covenant and notify all lessees of the restrictions on the use of the property. This requirement applies only to restrictive covenants imposed after February 1, 1996;

(e) Require notice and approval by the department of any proposal to use the site in a manner which is inconsistent with the restrictive covenant. If the department, after public notice and comment approves the proposed change, the restrictive covenant shall be amended to reflect the change~~((:));~~

~~((e+))~~ (f) Grant the department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the cleanup action plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records.

(6) Local government notification. Prior to a restrictive covenant being established under this chapter, the department shall notify and seek comment from a city or county department with land use planning authority for real property subject to the restrictive covenant. Once a restrictive covenant has been executed, this same department shall be notified and sent a copy of the restrictive covenant. For independent cleanups using restrictive covenants, the person conducting the cleanup shall be responsible for these notifications.

(7) Financial assurances. The department may require the potentially liable person to provide financial assurances, through a trust fund or equivalent financial mechanism approved by the department, sufficient to cover all costs of operation and maintenance including compliance monitoring and undertaking appropriate corrective measures. It is the department's expectation that such assurances will be required wherever the cleanup action includes containment and in other appropriate circumstances.

~~((7))~~ (8) Removal of restrictions. If the residual hazardous substances remaining at the site are subsequently reduced in concentration such that the method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760 are met without a conditional point of compliance, then the owner may request that the restrictive covenant or other restrictions be eliminated. The restrictive covenant or other restrictions shall be removed, if the department, after public notice and opportunity for comment, concurs.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-530 Agreed orders. (1) Agreed orders may be used for all remedial actions (~~(except for nonroutine cleanup actions and interim actions that constitute a substantial majority of a cleanup action likely to be selected)~~). Since an agreed order is not a settlement, an agreed order shall not provide for mixed funding, a covenant not to sue, or protection from claims for contribution. An agreed order means that the potentially liable person agrees to perform remedial actions at the site in accordance with the provisions of the agreed order and that the department will not take additional enforcement action against the potentially liable person to require those remedial actions specified in the agreed order so long as the potentially liable person complies with the provisions of the order. The department may require additional remedial actions should it deem such actions necessary.

(2) Request.

(a) To request an agreed order, a person shall submit a letter to the department based on available information, describing:

(i) The proposed remedial action including a schedule for the work;

(ii) The facility, including location and boundaries;

(iii) The environmental problems to be addressed, including the releases at the facility and the potential impact of those releases to human health and the environment;

(iv) A summary of the relevant historical use or conditions at the facility;

(v) Names of other persons whom the person has reason to believe may be potentially liable persons at the facility; and

(vi) A proposed public participation plan. This proposed plan shall be commensurate with the nature of the proposal and site and shall include at a minimum the elements listed in WAC 173-340-600(8).

(b) The letter may include a waiver of the procedural requirements of WAC 173-340-500, and acceptance, for purposes of the agreed order, of potentially liable person status.

(c) Recognizing that the basic steps of the cleanup process may be combined and may vary by site, the information in the request shall be at the level of detail appropriate to the step in the process for which the order is requested. For example, a request for an agreed order for a state remedial investigation/feasibility study should generally include the level of information needed for a site hazard assessment, so that the department and the public can evaluate the proposed scope of work and relative priority of the site.

(d) The department may waive part of the letter requirements of (a) of this subsection if the requirements have already been met.

(3) Response. The department shall respond to the request within sixty days, unless the department needs additional time to determine potentially liable person status under WAC 173-340-500. The department may:

(a) Request additional information;

(b) Proceed with discussions, if the department believes it is in the public interest to do so; or

(c) Provide written reasons for denying the request.

(4) Discussions on the agreed order shall not exceed sixty days unless the department decides continued discussions are in the public interest.

Unless an emergency exists, the department will stay any enforcement action under chapter 70.105D RCW; however, the duration of such stay shall not exceed sixty days from the date discussions begin. Furthermore, the department can withdraw from discussions if it determines that:

(a) Reasonable progress is not being made toward an agreed order acceptable to the department; or

(b) The agreed order is inappropriate based on new information or changed circumstances.

The department may commence with enforcement action after notifying the potentially liable person in writing of its intent to withdraw from discussions.

(5) Focus of discussions. The focus of discussions for the agreed order shall ordinarily be the technical scope of work and work schedule. This subsection is not intended to preclude discussion on any item. It is intended to convey the expectation that the scope of work and work schedule will be the primary topics of discussion in formulating agreed orders.

(6) When issuing an agreed order, the department shall provide appropriate public participation opportunities under WAC 173-340-600. If the agreed order is for a routine cleanup action and any person requests judicial review, then the applicable consent decree procedures under WAC 173-340-520 will be initiated.

(7) Revisions. If the department and the potentially liable person signing the order agree to substantial changes in the order, the department shall provide appropriate additional public notice and opportunity to comment.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-700 Overview of cleanup standards.

(1) Purpose. This section provides an overview of the methods for establishing cleanup standards that apply to a release or threatened release of a hazardous substance at a

site. If there are any inconsistencies between this section and any specifically referenced section, the referenced section shall govern.

(2) Cleanup standards versus selection of cleanup actions.

(a) Cleanup standards are identified for the particular hazardous substances at a site and the specific areas or pathways, such as land or water, where humans and the environment can become exposed to these substances. This part provides uniform methods state-wide for identifying cleanup standards and requires that all cleanups under the act meet these standards. The actual degree of cleanup may vary from site to site and will be determined by the cleanup action alternative selected under WAC 173-340-360. Establishing cleanup standards for individual sites requires the specification of the following:

(i) Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

(ii) The location on the site where those cleanup levels must be attained ("points of compliance"); and

(iii) Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established in conjunction with the selection of a specific cleanup action.

(b) For most sites, there are several cleanup technologies or combinations of cleanup technologies ("cleanup action alternatives") that may be used to comply with cleanup standards at individual sites. Other parts of this rule govern the process for planning and deciding on the cleanup action to be taken at a site. For example, WAC 173-340-350 (State remedial investigation and feasibility study) (RI/FS) specifies the studies that are prepared to define the nature and extent of contamination ("RI") and to identify and evaluate cleanup action alternatives ("FS"). WAC 173-340-360 (Selection of cleanup actions) specifies the criteria for selecting the preferred alternative. WAC 173-340-410 specifies the monitoring required to assure that the remedy is effective.

(c) The department recognizes that cleanup actions selected under WAC 173-340-360 may involve containment of hazardous substances. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(3) Three basic methods for establishing cleanup levels. These rules provide three approaches for establishing cleanup levels:

(a) Method A: Tables. On some sites, the cleanup action may be routine (WAC 173-340-130) or may involve relatively few hazardous substances. Under Method A, cleanup levels for hazardous substances are established at concentrations at least as stringent as concentrations specified in applicable state and federal laws and Tables 1, 2, or 3 of this chapter. Method A cleanup levels for hazardous substances not addressed under applicable state and federal laws or Tables 1, 2, or 3 are established at concentrations which do not exceed the natural background concentration or the practical quantitation limit for the substance in question.

(b) Method B: Standard method. Method B is the standard method for determining cleanup levels for ground water, surface water, soil, and air. Cleanup levels for individual hazardous substances are established using applicable state and federal laws or the risk equations specified in WAC 173-340-720 through 173-340-750. For individual carcinogens, cleanup levels are based upon the upper bound of the estimated excess lifetime cancer risk of one in one million (1×10^{-6}). For individual noncarcinogenic substances, cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and the environment. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method B cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(c) Method C: Conditional method. Compliance with cleanup levels developed under the method A or B may be impossible to achieve or may cause greater environmental harm. In those situations, method C cleanup levels for individual hazardous substances may be established on the basis of applicable state and federal laws and a site-specific risk assessment. Method C industrial soil cleanup levels may also be established at industrial ((sites)) properties which meet the criteria in WAC 173-340-745. For individual carcinogens, method C cleanup levels are based upon the upper bound of the estimated lifetime cancer risk of one in one hundred thousand (1×10^{-5}). For individual noncarcinogenic substances, method C cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and no significant adverse effects on the protection and propagation of aquatic and terrestrial organisms. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method C cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(4) Additional requirements for setting cleanup levels. Several requirements apply to cleanups under any of the three basic methods. Some of these requirements, such as the identification of applicable state and federal laws, describe analyses used along with methods A, B or C in order to set cleanup levels for particular substances at a site. Others describe the technical procedures to be used.

(a) Applicable state and federal laws. RCW 70.105D.-030 (2)(d) requires the cleanup standards in these rules to be "at least as stringent as all applicable state and federal laws." In addition to establishing minimum requirements for cleanup standards, applicable state and federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710 and are similar to the "ARAR" (applicable, relevant and appropriate requirements) approach of the federal superfund law.

(b) Cross-media contamination. In some situations, migration of hazardous substances from one medium may cause contamination in a second media. For example, the release of hazardous substances in soil may cause ground water contamination. Under methods A, B, and C, cleanup levels must be established at concentrations which prevent violations of cleanup levels for other media following implementation of the cleanup action.

(c) Risk assessment procedures. The analyses performed under methods B and C use several factors for defining cleanup levels for carcinogens and noncarcinogens. The individual factors and procedures for modifying these factors based on new scientific information are specified in WAC 173-340-708 and 173-340-720 through 173-340-750. WAC 173-340-708 also provides rules for use of indicator hazardous substances.

(d) Natural background. Cleanup levels shall not exceed concentrations established under methods A, B, or C except where the natural background concentration is greater than the cleanup level established under those methods. In such situations, the cleanup level shall be established at a concentration equal to the natural background concentration.

(5) Threshold criteria for all cleanup actions. WAC 173-340-360 specifies that all cleanup actions conducted under this chapter shall protect human health and the environment, comply with cleanup standards and applicable state and federal laws, and provide for compliance monitoring. These are the threshold criteria and all cleanup actions must meet these criteria regardless of other factors such as cost or technical limitations.

(6) Measuring compliance. Setting cleanup standards also involves being able to demonstrate that they have been met. This involves specifying where on the site the cleanup levels must be met ("points of compliance"), how long it takes for a site to meet cleanup levels ("restoration time frame"), and conducting sufficient monitoring to demonstrate that the cleanup standards have been met and will continue to be met in the future. The provisions for establishing points of compliance are in WAC 173-340-720 through 173-340-750. The provisions for establishing restoration time frames are in WAC 173-340-360. The compliance monitoring plan prepared under WAC 173-340-410 specifies precisely how these are measured for each site. Where cleanup levels are below the practical quantitation limit, compliance with cleanup standards will be based upon the practical quantitation limit.

(7) Administrative principles for cleanup standards.

(a) Remedial actions under this chapter shall be conducted in a manner that is consistent with this section. This section shall be used in combination with WAC 173-340-130, the more specific sections in Part VII of this chapter and WAC 173-340-360.

(b) Establishing cleanup standards and selecting an appropriate cleanup action involves many technical and public policy decisions. This chapter is intended to constrain the range of decisions needed to be made on individual sites to promote expeditious cleanups.

(c) The act contains policies which state, in part, each person has a fundamental and inalienable right to a healthful environment and it is essential that sites be cleaned up well. Consistent with these policies, cleanup standards under this chapter shall be established which provide conservative

estimates of human health and environmental risks which protect susceptible individuals as well as the general population.

(d) Cleanup standards under this chapter shall be established which protect human health and the environment for current and potential future site and resource uses.

(e) Cleanup actions that achieve cleanup levels under methods A, B or C (as applicable) and comply with applicable state and federal laws shall be presumed to be protective of human health and the environment.

(f) Except as provided for in applicable state and federal laws, cost shall not be a factor in determining what cleanup level is protective of human health and the environment. In addition, where specifically provided for in this chapter, cost may be appropriate for certain other determinations related to cleanup standards such as point of compliance. Cost shall, however, be considered when selecting an appropriate cleanup action.

(g) At most sites, there is more than one hazardous substance and more than one pathway for hazardous substances to get into the environment. For many sites there is more than one technology that could address each of these. When evaluating cleanup action alternatives it is appropriate to consider a representative range of technologies that could address each of these as well as different combinations of these technologies to accomplish the overall site cleanup.

(h) The cleanup of a particular media of a site will often affect other media at the site. These cross-media impacts shall be considered when establishing cleanup standards and selecting a cleanup action. Cleanup actions conducted under this chapter shall use appropriate engineering controls or other measures to minimize these cross-media impacts.

(i) In general, cleanup levels must be met throughout a site before the site will be considered to be clean. A remedy that leaves hazardous substances on a site in excess of cleanup levels may qualify as a cleanup action as long as the remedy is protective of human health and the environment, meets cleanup levels at specified points of compliance, complies with applicable state and federal laws, provides for adequate monitoring, and incorporates appropriate institutional controls. However, these rules are intended to promote thorough cleanups rather than long-term partial cleanups or containment measures.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-706 Use of method C. (1) Method C cleanup levels represent concentrations which are protective of human health and the environment for specified site uses. A site (or portion of a site) that qualifies for a method C cleanup level for one medium does not necessarily qualify for a method C cleanup level in other media. Each medium must be evaluated separately using the criteria applicable to that medium.

(a) Method C cleanup levels may be established where the person (~~undertaking~~) conducting the cleanup action can demonstrate that such levels comply with applicable state and federal laws, that all practicable methods of treatment are utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the following conditions exist:

~~((a))~~ (i) Where method A or B cleanup levels are below area background concentrations, method C cleanup levels may be established at concentrations that are equal to area background concentrations, but in no case greater than concentrations specified in subsection (2) of this section; or

~~((b))~~ (ii) Where attainment of method A or B cleanup levels has the potential for creating a significantly greater overall threat to human health or the environment than attainment of method C cleanup levels established under this chapter, method C cleanup levels may be established at concentrations which minimize those overall threats, but in no case greater than concentrations specified in subsection (2) of this section. Factors that shall be considered in making this determination include:

~~((+))~~ (A) Results of a site-specific risk assessment;

~~((+))~~ (B) Duration of threats;

~~((+))~~ (C) Reversibility of threats;

~~((+))~~ (D) Magnitude of threats; and

~~((+))~~ (E) Nature of affected population.

~~((e))~~ (iii) Where method A or B cleanup levels are below technically possible concentrations, method C cleanup levels may be established at the technically possible concentrations, but in no case greater than levels specified in subsection (2) of this section.

~~(d) The site is defined as an industrial site and meets the criteria for establishing soil cleanup levels under WAC 173-340-745).~~

(b) For soil cleanup levels only, Method C cleanup levels may also be established where the person conducting the cleanup action can demonstrate that the area under consideration is an industrial property and meets the criteria for establishing industrial soil cleanup levels under WAC 173-340-745.

(2) Method C cleanup levels shall be established in accordance with the procedures in WAC 173-340-720 through 173-340-760. Method C cleanup levels shall be at least as stringent as all of the following:

(a) Concentrations established under applicable state and federal laws;

(b) Concentrations which are estimated to result in no significant adverse effects on the protection and propagation of aquatic and terrestrial life;

(c) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which are protective of human health and the environment as determined by the following methods:

(i) Concentrations which are estimated to result in no significant adverse acute or chronic toxic effects on human health as estimated using a hazard quotient of one (1) and the procedures defined in WAC 173-340-720 through 173-340-760;

(ii) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to one in one hundred thousand as determined using the procedures defined in WAC 173-340-720 through 173-340-760; and

(iii) Concentrations which eliminate or minimize the potential for food chain contamination.

(3) The department may establish method C cleanup levels that are more stringent than those required by subsection (2) of this section when based upon a site-specific

evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Concentrations of individual hazardous substances established under subsections (2) and (3) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with WAC 173-340-708. In making these adjustments, the hazard index shall not exceed one (1) and the total excess cancer risk shall not exceed one in one hundred thousand. These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(5) If there are any inconsistencies between this subsection and any specifically referenced sections, the referenced section shall govern.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-740 Soil cleanup standards. (1) General considerations.

(a) Presumed exposure scenario soil cleanup levels shall be based on estimates of the reasonable maximum exposure expected to occur under both current and future site use conditions. The department has determined that residential ~~((site))~~ land use is generally the site use requiring the most protective cleanup levels and that exposure to hazardous substances under residential ~~((site))~~ land use conditions represents the reasonable maximum exposure scenario. Soil cleanup levels for this presumed exposure scenario shall be established in accordance with method A or method B cleanup levels described in subsections (2) and (3) of this section. In the event of a release of a hazardous substance, treatment, removal, and/or containment measures shall be implemented for those soils with hazardous substance concentrations which exceed soil cleanup levels based on this use unless the following can be demonstrated:

(i) The ~~((site))~~ property does not serve as a current residential area;

(ii) The ~~((site))~~ property does not have the potential to serve as a future residential area based on the consideration of ~~((site))~~ zoning, statutory and regulatory restrictions, comprehensive plans, historical ~~((site))~~ use, adjacent land uses, and other relevant factors; and

(iii) Appropriate ~~((site))~~ use restrictions are implemented at the ~~((site))~~ property; or

(iv) More stringent concentrations are necessary to protect human health and the environment.

(b) Industrial property soil cleanup levels. Soil cleanup levels for qualifying industrial ~~((sites))~~ properties may be established in accordance with the requirements in WAC 173-340-745.

(c) Commercial property soil cleanup levels. For industrial ~~((sites))~~ land uses not qualifying under WAC 173-340-745 and commercial ~~((sites))~~ land uses, the presumption is that soil cleanup levels ~~((with))~~ shall be established in accordance with residential areas unless it can be clearly demonstrated that this is inappropriate.

(i) For a ((site)) property to qualify under this subsection, it must be clearly demonstrated that:

(A) The ((site)) property is currently zoned for or otherwise officially designated for industrial/commercial use;

(B) The ((site)) property is currently used for industrial/commercial purposes or has a history of use for industrial/commercial purposes;

(C) Properties adjacent to and in the general vicinity of the ((site)) property are used or are designated for use for industrial/commercial purposes; and

(D) The ((site-is)) property and properties adjacent to and in the general vicinity are expected to be used for industrial/commercial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors.

(ii) For industrial/commercial ((sites)) land uses qualifying under this subsection, soil cleanup levels shall be established as close as practicable to the method B soil cleanup levels established under subsection (3) of this section and shall be at least as stringent as the method C soil cleanup levels established under subsection (4) of this section. The overall limits on hazard index and total excess cancer risk specified in subsections (3) through (5) of this section shall apply to these sites.

(iii) Institutional controls under WAC 173-340-440 shall be required for industrial/commercial ((sites)) land uses qualifying under this subsection where soil cleanup levels are less stringent than method B soil cleanup levels established under subsection (3) of this section.

(iv) Soil cleanup levels for areas beyond the commercial/industrial property boundary that do not qualify for commercial soil cleanup levels under this subsection (including implementation of institutional controls and a covenant restricting use of the property to commercial or industrial use, as applicable) shall use method A or method B cleanup levels as described in subsections (2) or (3) of this section.

(v) The department expects that only industrial/commercial ((sites)) properties located in the interior portion of a large industrial/commercial area will qualify for other than method A or method B cleanup levels under this subsection.

(d) Other nonresidential properties soil cleanup levels.

(i) Soil cleanup levels for childcare facilities and schools shall be established in accordance with method A or method B cleanup levels as described in subsections (2) and (3) of this section.

(ii) For other nonresidential ((site)) land uses such as recreational or agricultural uses, soil cleanup levels shall be established on a case-by-case basis.

(A) The overall limits on the hazard index and cancer risk specified in subsections (3) through (5) of this section shall apply to these types of sites.

(B) Soil cleanup levels for these types of sites shall be at least as stringent as method C cleanup levels established under subsection (4) of this section.

(C) Where other than a method A (residential) or method B soil cleanup level is proposed at these properties, the cleanup action shall include appropriate institutional controls implemented in accordance with WAC 173-340-440 to limit potential exposure to residual contamination. This shall include, at a minimum, placement of a covenant on the

property restricting use of the property to the land use(s) the cleanup level is based on.

(e) Relationship between soil cleanup levels and other cleanup standards. Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, sediment, or air cleanup standards established under this chapter or applicable state and federal laws. A property that qualifies for other than a method A or method B soil cleanup level under this subsection does not necessarily qualify for other than a method A or method B cleanup level in other media. Each medium must be evaluated separately using the criteria applicable to that medium.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table; and

Table 2
Method A Cleanup Levels - Soil^a

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	20.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	2.0 mg/kg ^d
Chromium	7440-47-3	100.0 mg/kg ^e
DDT	50-29-3	1.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	250.0 mg/kg ⁱ
Lindane	58-89-9	1.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		1.0 mg/kg ^m
PCB Mixtures		1.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s
1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter.

^b Arsenic. Cleanup level based on background concentrations in the state of Washington.

^c Benzene. Cleanup level based on protection of ground water.

^d Cadmium. Cleanup level based on plant protection.

^e Chromium. Cleanup level based on health risks associated with inhalation of resuspended dust.

^f DDT. Cleanup level based on concentrations derived using the procedures in subsection (3)(a)(iii)(B) of this section.

^g Ethylbenzene. Cleanup level based on protection of ground water.

^h Ethylene dibromide. Cleanup level based on protection of ground water.

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- i Lead. Cleanup level based on preventing unacceptable blood lead levels.
- j Lindane. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- k Methylene chloride. Cleanup level based on protection of ground water.
- l Mercury. Cleanup level based on protection of ground water.
- m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- n PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.
- o Tetrachloroethylene. Cleanup level based on protection of ground water.
- p Toluene. Cleanup level based on protection of ground water.
- q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- u Trichloroethylene. Cleanup level based on protection of ground water.
- v Xylenes. Cleanup level based on protection of ground water.

(ii) Concentrations established under applicable state and federal laws;

(b) For sites with additional hazardous substances which are deemed indicator hazardous substances under WAC 173-340-708(2) for which there is no value in Table 2 or applicable state and federal laws, cleanup levels for these additional hazardous substances shall be established at the natural background concentration or the practical quantification limit, subject to the limitations in this chapter.

(c) The department may establish method A cleanup levels that are more stringent than those required by subsection (2)(a) of this section, when based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment.

(3) Method B cleanup levels.

(a) Method B cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed method B ground water cleanup levels established under WAC 173-340-720 as determined using the following criteria:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons.

(iii) For those hazardous substances for which health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are estimated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{ABI} \times \text{FOC}}$$

(mg/kg)

Where:

- RFD = Reference Dose as defined in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight over the period of exposure (16 kg)
- UCF2 = Units conversion factor (1,000,000 mg/kg)
- SIR = Soil ingestion rate (200 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- FOC = Frequency of contact (1.0)
- HQ = Hazard quotient (1);

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 1,000,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{ABI} \times \text{DUR} \times \text{FOC}}$$

(mg/kg)

Where:

- RISK = Acceptable cancer risk level (1 in 1,000,000)
- ABW = Average body weight over the period of exposure (16 kg)
- LIFE = Lifetime (75 years)
- UCF1 = Unit conversion factor (1,000,000 mg/kg)
- CPF = Carcinogenic Potency Factor as defined in WAC 173-340-708(8) (kg-day/mg)
- SIR = Soil ingestion rate (200 mg/day)
- ABI = Gastrointestinal absorption rate (1.0)
- DUR = Duration of exposure (6 years)
- FOC = Frequency of contact (1.0);

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method B cleanup levels established under WAC 173-340-750.

(b) The department may establish method B cleanup levels that are more stringent than those required under (a) of this subsection, when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment, including the following:

(i) Concentrations which eliminate or substantially reduce the potential for food chain contamination;

(ii) Concentrations which eliminate or substantially reduce the potential for damage to soils or biota in the soils which could impair the use of soils for agricultural or silvicultural purposes;

(iii) Concentrations which eliminate or substantially reduce the potential for adverse effects on vegetation or wildlife;

(iv) Concentrations more stringent than those in (b) of this subsection where the department determines that such levels are necessary to protect the ground water at a particular site;

(v) Concentrations necessary to protect nearby surface waters from hazardous substances in runoff from the site; and

(vi) Concentrations which eliminate or minimize the potential for the accumulation of vapors in buildings or other structures to concentrations which pose a threat to human health or the environment.

(4) Method C cleanup levels.

(a) Method C soil cleanup levels may be ~~((approved by the department))~~ utilized if the person ~~((undertaking))~~ conducting the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that all practicable methods of treatment have been utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the conditions in WAC 173-340-706 (1)(a) exist.

(b) Method C cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no significant acute or chronic toxic effects on human health and estimated in accordance with WAC 173-340-740 (3)(a)(iii)(A) except that the frequency of contact shall be 0.5, the soil ingestion rate shall be 100 milligrams per day, and the average body weight shall be 16 kilograms;

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are estimated in accordance with WAC 173-340-740 (3)(a)(iii)(B) except that the frequency of contact shall be 0.5 and the soil ingestion rate shall be 100 milligrams per day; and

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method C cleanup levels established under WAC 173-340-750.

~~((b))~~ (C) The department may establish method C cleanup levels that are more stringent than those required by (a) through (c) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environ-

ment, including consideration of those factors listed in subsection (3)~~((e))~~(b) of this section.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including cleanup levels based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6).

In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance.

(a) The point of compliance is the point or points where the soil cleanup levels established under subsections (2), (3), (4), and (5) of this section shall be attained.

(b) For soil cleanup levels based on the protection of ground water, the point of compliance shall be established in the soils throughout the site.

(c) For soil cleanup levels based on human exposure via direct contact, the point of compliance shall be established in the soils throughout the site from the ground surface to fifteen feet below the ground surface. This represents a reasonable estimate of the depth of soil that could be excavated and distributed at the soil surface as a result of site development activities.

(d) The department recognizes that, for those cleanup actions selected under WAC 173-340-360 that involve containment of hazardous substances, the soil cleanup levels will typically not be met at the points of compliance specified in (b) and (c) of this subsection. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(7) Compliance monitoring.

(a) Compliance with soil cleanup levels shall be based on total analyses of the soil fraction less than two millimeters in size. When it is reasonable to expect that larger soil particles could be reduced to two millimeters or less during current or future site use and this reduction could cause an increase in the concentrations of hazardous substances in the soil, soil cleanup levels shall also apply to these larger soil particles. Compliance with soil cleanup levels shall be based on dry weight concentrations. The department may approve the use of alternate procedures for stabilized soils.

(b) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the area where exposure to hazardous substances may occur.

(c) The data analysis and evaluation procedures used to evaluate compliance with soil cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. These procedures shall meet the following general requirements:

(i) Methods of data analysis shall be consistent with the sampling design. Separate methods may be specified for surface soils and deeper soils;

(ii) When cleanup levels are based on requirements specified in applicable state and federal laws, the procedures for evaluating compliance that are specified in those requirements shall be utilized to evaluate compliance with cleanup levels unless those procedures conflict with the intent of this section;

(iii) Where procedures for evaluating compliance are not specified in an applicable state and federal law, statistical methods shall be appropriate for the distribution of sampling data for each hazardous substance. If the distribution of sampling data for a hazardous substance is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions for hazardous substances differ, more than one statistical method may be required; and

(iv) The data analysis plan shall specify which parameters are to be used to determine compliance with soil cleanup levels.

(A) For cleanup levels based on short-term or acute toxic effects on human health or the environment, an upper percentile soil concentration shall be used to evaluate compliance with cleanup levels.

(B) For cleanup levels based on chronic or carcinogenic threats, the mean soil concentration shall be used to evaluate compliance with cleanup levels unless there are large variations in hazardous substance concentrations relative to the mean hazardous substance concentration or a large percentage of concentrations are below the detection limit.

(d) Appropriate statistical methods include the following:

(i) A procedure in which a confidence interval for each hazardous substance is established from site sampling data and the soil cleanup level is compared to the upper confidence interval;

(ii) A parametric test for percentiles based on tolerance intervals to test the proportion of soil samples having concentrations less than the soil cleanup level; or

(iii) Other statistical methods approved by the department.

(e) If a confidence interval approach is used to evaluate compliance with a soil cleanup level, the decision rule is a one-tailed test of the null hypothesis that the true soil concentration of a hazardous substance exceeds the soil cleanup level. Compliance with soil cleanup levels shall be determined using the following criteria:

(i) The upper confidence interval on the true soil concentration is less than the soil cleanup level. Statistical tests shall be performed at a Type I error level of 0.05;

(ii) No single sample concentration shall be greater than two times the soil cleanup level; and

(iii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level.

(f) If a method to test the proportion of soil samples is used to evaluate compliance with a soil cleanup level, compliance shall be determined using the following criteria:

(i) No single sample concentrations shall be greater than two times the soil cleanup level; and

(ii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level; and

(iii) The true proportion of samples that do not exceed the soil cleanup level shall not be less than ninety percent. Statistical tests shall be performed with a Type I error level of 0.05.

(g) For purposes of demonstrating compliance with soil cleanup levels, measurements below the method detection limit shall be assigned a value equal to one-half the method detection limit. Detectable levels below the practical quantitation limit shall be assigned a value equal to the method detection limit. The department may approve alternate statistical procedures for handling nondetected values or values below the practical quantitation limit. Alternate statistical procedures may include probit analysis and regression analysis.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-745 Soil cleanup standards for industrial ((sites)) properties. (1) General considerations.

(a) Use of this section. This section shall be used to establish soil cleanup levels where the department has determined that industrial ((site)) land use represents the reasonable maximum exposure.

(b) Criteria. Cleanup levels shall not be based on industrial ((site)) land use unless the following criteria can be demonstrated:

~~(i) ((The site is zoned or has been otherwise officially designated for industrial use;~~

~~(ii) The site is currently used for industrial purposes or has a history of use for industrial purposes;~~

~~(iii) Adjacent properties are currently used or designated for use for industrial purposes;~~

~~(iv) The site is expected to be used for industrial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors; and~~

~~(v) The cleanup action provides for institutional controls implemented in accordance with WAC 173-340-440.~~

~~(e) The department expects that only sites located within a limited number of large industrial areas will qualify for industrial soil cleanup levels under this section.)~~ The area of the site where industrial property soil cleanup levels are proposed meets the definition of an industrial property under WAC 173-340-200;

Industrial soil cleanup levels are based on an adult worker exposure scenario. It is essential to evaluate land uses and zoning for compliance with this definition in the context of this exposure scenario. Local governments use a variety of zoning categories for industrial land uses so a property does not necessarily have to be in a zone called "industrial" to meet the definition of "industrial property." Also, there are land uses allowed in industrial zones that are actually commercial or residential, rather than industrial, land uses. Thus, an evaluation to determine compliance with this

definition should include a review of the actual text in the comprehensive plan and zoning ordinance pertaining to the site and a visit to the site to observe land uses in the zone. When evaluating land uses to determine if a property use not specifically listed in the definition is a "traditional industrial use" or to determine if the property is "zoned for industrial use," the following characteristics shall be considered:

- People do not normally live on industrial property. The primary potential exposure is to adult employees of businesses located on the industrial property;
- Access to industrial property by the general public is generally not allowed. If access is allowed, it is highly limited and controlled due to safety or security considerations;
- Food is not normally grown/raised on industrial property. (However, food processing operations are commonly considered industrial facilities);
- Operations at industrial properties are often (but not always) characterized by use and storage of chemicals, noise, odors and truck traffic;
- The surface of the land at industrial properties is often (but not always) mostly covered by buildings or other structures, paved parking lots, paved access roads and material storage areas—minimizing potential exposure to the soil;
- Industrial properties may have support facilities consisting of offices, restaurants, and other facilities that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are primarily intended to serve the industrial facility employees and not the general public;

(ii) The cleanup action provides for appropriate institutional controls implemented in accordance with WAC 173-340-440 to limit potential exposure to residual hazardous substances. This shall include, at a minimum, placement of a covenant on the property restricting use of the area of the site where industrial soil cleanup levels are proposed to industrial property uses; and

(iii) Hazardous substances remaining at the property after remedial action would not pose a threat to human health or the environment at the site or in adjacent nonindustrial areas. In evaluating compliance with this criterion, at a minimum the following factors shall be considered:

- The potential for access to the industrial property by the general public, especially children. The proximity of the industrial property to residential areas, schools or childcare facilities shall be considered when evaluating access. In addition, the presence of natural features, manmade structures, arterial streets or intervening land uses that would limit or encourage access to the industrial property shall be considered. Fencing shall not be considered sufficient to limit access to an industrial property since this is insufficient to assure long term protection;

- The degree of reduction of potential exposure to residual hazardous substances by the selected remedy. Where the residual hazardous substances are to be capped to reduce exposure, consideration shall be given to the thickness of the cap and the likelihood of future site maintenance activities, utility and drainage work, or building construction reexposing residual hazardous substances.
- The potential for transport of residual hazardous substances to off-property areas, especially residential areas, schools and childcare facilities;
- The potential for adverse effects on vegetation or wildlife caused by residual hazardous substances; and
- The likelihood that these factors would not change for the foreseeable future.

(c) Ecology expectations. In applying the criteria in WAC 173-340-745 (1)(b), the department expects the following results:

(i) The department expects that properties zoned for heavy industrial or high intensity industrial use and located within a city or county having completed a comprehensive plan and adopted implementing zoning regulations under the Growth Management Act (chapter 36.70A RCW) will meet the definition of industrial property. For cities and counties not planning under the Growth Management Act, the department expects that spot zoned industrial properties will not meet the definition of industrial property but that properties that are part of a larger area zoned for heavy industrial or high intensity industrial use will meet the definition of an industrial property;

(ii) For both GMA and non-GMA cities and counties, the department expects that light industrial and commercial zones and uses should meet the definition of industrial property where the land uses are comparable to those cited in the definition of industrial property or the land uses are an integral part of a qualifying industrial use (such as, ancillary or support facilities). This will require a site-by-site evaluation of the zoning text and land uses;

(iii) The department expects that for portions of industrial properties in close proximity to (generally, within a few hundred feet) residential areas, schools or childcare facilities, residential soil cleanup levels will be used unless:

(A) Access to the industrial property is very unlikely or, the hazardous substances that are not treated or removed are contained under a cap of clean soil (or other materials) of substantial thickness so that it is very unlikely the hazardous substances would be disturbed by future site maintenance and construction activities (depths of even shallow footings, utilities and drainage structures in industrial areas are typically three to six feet); and

(B) The hazardous substances are relatively immobile (or have other characteristics) or have been otherwise contained so that subsurface lateral migration or surficial transport via dust or runoff to these nearby areas or facilities is highly unlikely; and

(iv) Note that a change in the reasonable maximum exposure to industrial site use primarily affects the direct contact exposure pathway. Thus, for example, for sites where the soil cleanup level is based primarily on the

potential for the hazardous substance to leach and cause ground water contamination, it is the department's expectation that an industrial land use will not affect the soil cleanup level. Similarly, where the soil cleanup level is based primarily on surface water protection, ecological or other pathways other than direct human contact, land use is not expected to affect the soil cleanup level.

(d) Calculating industrial property soil cleanup levels. Soil cleanup levels established under this section shall be ~~((as close as practicable to cleanup levels established in accordance with WAC 173-340-740, but in no case higher than the concentrations established under))~~ determined as described in subsections (2) through (5) of this section.

(e) Soil cleanup levels for nearby properties. Soil cleanup levels for areas beyond the industrial property boundary that do not qualify for industrial soil cleanup levels under this section (including implementation of institutional controls and a covenant restricting use of the property to industrial property uses) shall be established in accordance with WAC 173-340-740.

(f) Relationship between soil cleanup levels and other cleanup standards. Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, sediment or air cleanup standards established under this chapter or under applicable state and federal laws. A property that qualifies for an industrial soil cleanup level under this section does not necessarily qualify for other than a Method A or Method B cleanup level in other media. Each medium must be evaluated separately utilizing the criteria applicable to that medium.

(g) Other options. See WAC 173-340-740 (1)(c) for establishing cleanup levels ~~((at industrial sites))~~ for industrial land uses not qualifying under this section and ((at commercial sites)) for commercial land uses.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table:

**Table 3
Method A Cleanup Levels - Industrial Soil^a**

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	200.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	10.0 mg/kg ^d
Chromium (Total)	7440-47-3	500.0 mg/kg ^e
DDT	50-29-3	5.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	1000.0 mg/kg ⁱ
Lindane	58-89-9	20.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		20.0 mg/kg ^m
PCB Mixtures		10.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s

1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

- a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup actions under this chapter.
- b Arsenic. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- c Benzene. Cleanup level based on protection of ground water.
- d Cadmium. Cleanup level based on protection of ground water.
- e Chromium. Cleanup level based on inhalation exposure.
- f DDT. Cleanup level based on protection of ground water.
- g Ethylbenzene. Cleanup level based on protection of ground water.
- h Ethylene dibromide. Cleanup level based on protection of ground water.
- i Lead. Cleanup level based on direct contact.
- j Lindane. Cleanup level based on cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- k Methylene chloride. Cleanup level based on protection of ground water.
- l Mercury. Cleanup level based on protection of ground water.
- m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- n PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- o Tetrachloroethylene. Cleanup level based on protection of ground water.
- p Toluene. Cleanup level based on protection of ground water.
- q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- u Trichloroethylene. Cleanup level based on protection of ground water.
- v Xylenes. Cleanup level based on protection of ground water; and

(ii) Concentrations established under applicable state and federal laws;

(b) For sites with additional hazardous substances which are deemed indicator hazardous substances under WAC 173-340-708(2) for which there is no value in Table 3 or applicable state and federal laws, cleanup levels for these additional hazardous substances shall be established at the natural background concentration or the practical quantification limit, subject to the limitations in this chapter.

(c) The department may establish method A cleanup levels that are more stringent than those required by (a) of this subsection when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health or environment, including consideration of the factors in WAC 173-340-740 (3)(b).

(3) Method B cleanup levels. This section does not provide procedures for establishing method B cleanup levels.

PERMANENT

Method C is the standard method for establishing soil cleanup levels at industrial sites and its use is conditioned upon the continued use of the site for industrial purposes.

(4) Method C cleanup levels.

(a) Method C cleanup levels for industrial soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water to concentrations which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that higher soil concentrations are protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup action may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which sufficiently protective health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{AB1} \times \text{FOC}}$$

(mg/kg)

Where:

- RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight over the period of exposure (70 kg)
- UCF2 = Unit conversion factor (1,000,000 mg/kg)
- SIR = Soil ingestion rate (50 mg/day)
- AB1 = Gastrointestinal absorption rate (1.0)
- FOC = Frequency of contact (0.4)
- HQ = Hazard quotient (1);

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{AB1} \times \text{DUR} \times \text{FOC}}$$

(mg/kg)

Where:

- RISK = Acceptable cancer risk level (1 in 100,000)
- ABW = Average body weight over the period of exposure (70 kg)
- LIFE = Lifetime (75 years)
- UCF1 = Units conversion factor (1,000,000 mg/kg)
- CPF = Carcinogenic Potency Factor as specified in WAC 173-340-708(8) (kg-day/mg)
- SIR = Soil ingestion rate (50 mg/day)
- AB1 = Gastrointestinal absorption rate (1.0)
- DUR = Duration of exposure (20 years)
- FOC = Frequency of contact (0.4);

(b) The department may establish method C cleanup levels that are more stringent than those required by (a) of

this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsection (4) of this section, including cleanup levels based on state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance. The point of compliance shall be established in accordance with WAC 173-340-740(6).

(7) Compliance monitoring. Compliance monitoring shall be performed in accordance with WAC 173-340-410 and 173-340-740(7).

WSR 96-04-013
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 26, 1996, 12:01 p.m.]

Date of Adoption: January 26, 1996.

Purpose: To revise and simplify existing rules, to change the frequency of fee assessments from semiannual to annual, and to change the frequency of examinations from every eighteen months to every twenty-four months. Also to recodify existing rules into chapter 208-620 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 50-20-170 and 50-20-200; and amending WAC 50-20-100, 50-20-110, 50-20-120, 50-20-130, 50-20-140, 50-20-150, 50-20-160, and 50-20-190.

Statutory Authority for Adoption: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155, and [31.04].165.

Adopted under notice filed as WSR 95-22-107 on November 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: WAC 208-620-010, additional definitions added; WAC 208-620-150, clarified to eliminate requirement for second periodic state, in additional [addition] to federally required statement; WAC 50-20-100(2), changed to require that only appropriate blanks must be filled in on loan documents; WAC 50-20-130(3), deleted last sentence to eliminate an unnecessary additional requirement over federal requirements; and WAC 50-20-130(7), changed to restrict licensees from charging prepayment penalties only on loans made at rates allowed by the act.

Chapter 50-20 WAC will be recodified as follows:

PERMANENT

Old WAC Number	New WAC Number	Title
50-20-100	208-620-100	Records.
50-20-110	208-620-110	The note.
50-20-120	208-620-120	Contents of disclosure statement to borrower.
50-20-130	208-620-130	Restrictions as to charges.
50-20-140	208-620-160	Advertising.
50-20-150	208-620-210	Other business in same office.
50-20-160	208-620-140	Open-end loans—Increase in interest—Notice to borrower.
50-20-180	208-620-170	Knowledge of the law and regulations.
50-20-190	208-620-190	Schedule of fees.

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 12, amended 9, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, amended 9, repealed 2.

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 13, amended 9, repealed 2.

Effective Date of Rule: Thirty-one days after filing.

January 26, 1996

John L. Bley
Director

NEW SECTION

WAC 208-620-010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

"Act" means the Consumer Loan Act, chapter 31.04 RCW.

"Add-on method" means the method of precomputing interest payable on a loan by adding the interest to be earned to the principal balance. This total, plus any charges allowed under this chapter, is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms.

"Affiliate" means any person who controls, is controlled by, or is under common control with another.

"Annual percentage interest rate" means the rate of interest specified in the note.

"Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. Section 226 et seq.

"Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

"Department" means the department of financial institutions.

"Director" means the director of the department of financial institutions or his or her designated representative.

"Filing" means filing, recording, releasing or reconveying mortgages, deeds of trust, security agreements or others documents, or transferring certificates of title to vehicles.

"Insurance" means life insurance, disability insurance, property insurance, insurance covering involuntary unemployment and such other insurance as may be authorized by the insurance commissioner in accordance with Title 48 RCW.

"License" means a license issued under the authority of this chapter with respect to a single place of business.

"Licensee" means a person who holds one or more current licenses.

"Live check" means a loan solicited through the mail in the form of a check, which, when endorsed by the payee, binds the payee to the terms of the loan agreement contained on the check.

"Loan" means a sum of money lent at interest and includes both open-end and closed-end transactions.

"Long-term subordinated debt" means for the purposes required in RCW 31.04.045 outstanding promissory notes or other evidence of debt with initial maturity of at least seven years and remaining maturity of at least two years.

"Out-of-state licensee" means any licensee that does not maintain a physical presence within the state.

"Person" includes individuals, partnerships, associations, trusts, corporations, and all other legal entities.

"Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

"Principal balance" means the principal amount plus any allowable origination fee.

"RCW" means the *Revised Code of Washington*.

"Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act, 12 U.S.C. Sections 2601 et seq., and Regulation X, 24 C.F.R. Sections 3500 et seq.

"Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

"Senior officer" means an officer of a consumer loan company at the vice-president level or above.

"Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balance of the principal amount outstanding for the time outstanding. Each payment shall first be applied to any unpaid penalties, fees, or charges, then to accumulated interest, and last to the unpaid balance of the principal amount until paid in full. In using such method, interest shall not be payable in advance or compounded.

"State" means the state of Washington.

"Subsidiary" means a person that is controlled by another.

"Third-party service provider" means any person other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

"Truth in Lending Act" means the Truth in Lending Act, 15 U.S.C. Sections 1601 et seq., and Regulation Z, 12 C.F.R. Sections 226 et seq.

PERMANENT

NEW SECTION

WAC 208-620-020 License application. (1) An applicant for a consumer loan company license under RCW 31.04.045 will complete the application form provided by the department.

- (2) The completed application shall be accompanied by:
 - (a) The names, addresses, and occupation of all board directors and senior officers;
 - (b) A statement of the experience and qualifications of all directors and senior officers;
 - (c) A current financial statement as of the most recent quarter end, prepared in accordance with generally accepted accounting principles. The statement must include a statement of assets and liabilities and a profit and loss statement;
 - (d) A business plan which includes at least the following:
 - (i) The anticipated source of and method of obtaining customers;
 - (ii) The type of loans to be made at the proposed licensed location;
 - (iii) The type of loan, if any, that will be sold or transferred to affiliated or nonaffiliated business entities;
 - (iv) The type of insurance products to be marketed at the proposed licensed location;
 - (v) The type of incidental products, if any, the applicant intends to market with approval of the director from the proposed licensed location; and
 - (vi) The procedures the applicant intends to use to resolve consumer complaints;
 - (e) A certificate of existence/authorization obtained from the Washington secretary of state;
 - (f) A valid surety bond (or approved bond substitute as provided in WAC 208-620-040) in the amount specified in WAC 208-620-030;
 - (g) If the applicant will be an out-of-state licensee, the applicant must submit information regarding its registered agent as required of out-of-state licensees by WAC 208-620-060; and
 - (h) The appropriate fees as specified in WAC 50-20-190.

(3) A licensee must complete another application for each additional consumer loan company license under RCW 31.04.075. The director may require that all or some of the information provided in the original application be updated.

NEW SECTION

WAC 208-620-030 Surety bond. (1) **Bond required.** Each licensee shall file and maintain a surety bond, approved by the director, and executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The surety company may not be a wholly owned subsidiary or an affiliate of the licensee.

(2) **Amount of bond.** The penal sum of the bond is one hundred thousand dollars for each branch office up to five branch offices. The amount of the bond is increased by ten thousand dollars for each additional branch office. For example:

Number of Branch Offices	Penal Sum of the Bond
1	\$100,000

2	\$200,000
3	\$300,000
4	\$400,000
5	\$500,000
6	\$510,000

(3) **Conditions on bond.** The bond shall run to the state as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under the act. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by the act and all the rules adopted under the act. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of the act.

NEW SECTION

WAC 208-620-040 Bond substitute in lieu of surety bond. (1) **Authority for Washington business corporation.** A licensee that is a Washington business corporation may maintain a bond substitute, as defined in WAC 208-620-010, in lieu of a surety bond. The bond substitute must be maintained in an amount so that the aggregate sum of the licensee's debt, including outstanding promissory notes or other evidences of debt does not at any time exceed three times the amount of its bond substitute.

Long-term subordinated debt, as defined in WAC 208-620-010, may be excluded from the licensee's debt for purposes of calculating the bond substitute only if any claim by the subordinate debtholder on the licensee's assets is junior to claims by the state or a consumer under the act. The licensee must file with the director a subordination agreement in favor of the state.

The director may evaluate the documentation submitted by the licensee or other documentation requested by the director and determine whether the bond substitute meets the requirements of RCW 31.04.045(3).

(2) **Financial reports required.** Semiannually a licensee that maintains a bond substitute shall submit to the director year-to-date financial statements prepared in accordance with generally accepted accounting principles, including at a minimum a statement of assets and liabilities and a profit and loss statement. The director may require that financial reports be submitted more frequently if past financial reports have been prepared incorrectly or were misleading or if there is substantial risk that the licensee will violate the bond substitute standard set in subsection (1) of this section. The director may require other documents, agreements and information deemed necessary to properly evaluate and ensure that the licensee remains in compliance with this section.

(3) **Bad debts and uncollectible judgments.** A licensee that maintains a bond substitute may not consider bad debts and uncollectible judgments as assets for purposes of calculating bond substitute. The director may approve exceptions in writing. A bad debt is any debt owed to the licensee upon which any payment is six months or more past due. An uncollectible judgment is any judgment which is more than two years old and which has not been paid. Time consumed by any appeal from such judgment is not counted in the two-year limit.

PERMANENT

(4) **Noncompliance.** A licensee that does not maintain sufficient bond substitute shall notify the director within ten business days of any date when the aggregate sum of its promissory notes and other evidence of debt, (other than long-term subordinated debt), exceeds three times the amount of its bond substitute. In the event that the licensee's semiannual financial statements or the director's investigation reveals that the licensee is no longer in compliance with this section, the licensee shall obtain and file with the director a surety bond in the amount required by WAC 208-620-030 within thirty days after receiving notice from the director. A licensee that files a surety bond as required by the director must maintain the surety bond for five years after the date of noncompliance. During this five-year period, the director will not accept a bond substitute. Failure to file a surety bond as required in this subsection may result in suspension of the licensee's license(s).

NEW SECTION

WAC 208-620-050 Interstate operations. (1) **License required.** Any person that conducts business under the act with Washington residents must obtain a license for all locations from which such business is conducted, including out-of-state locations. When conducting business with Washington residents pursuant to the act, the out-of-state licensee must comply with all laws and rules governing the activities of licensees in the state.

(2) **Keeping records out-of-state.** The director may approve the maintenance of a licensee's records at an out-of-state location. The licensee must request approval in writing and must agree to provide the director access to the records pursuant to WAC 208-620-180. Agreement to allow access to the records is a condition of licensing of an out-of-state location.

(3) **Servicing loans out-of-state.** A licensee may service loans made pursuant to the act at out-of-state locations as long as the locations are licensed. The licensee must agree in writing to provide the director access to the records pursuant to WAC 208-620-180.

(4) **Costs of examinations.** A licensee that makes loans pursuant to the act from out-of-state locations, maintains records outside the state or services loans pursuant to the act outside the state shall pay all costs associated with examining the records, including travel costs.

NEW SECTION

WAC 208-620-060 Registered agent and agent's office for out-of-state licensees. (1) **Agent required.** Any out-of-state licensee must continuously maintain a registered agent in this state. Service of process, notice, or demand in any judicial or administrative noncriminal suit, action, or proceeding against the licensee which arises under the act or any order under the act on the agent shall have the same force and validity as if served personally on the licensee.

(2) **Agent's address.** Each out-of-state licensee must file with the director the agent's name, office mailing address, and consent to appointment. The office mailing address must accurately identify the actual location of the agent's office. It may not be identified by a post office box number or a street address and box number of a private mail box company which creates the illusion of a physical office

location where none in fact exists, or other nongeographic address.

(3) **Agent's consent required.** An out-of-state licensee may not appoint a registered agent without the agent's prior written consent to the appointment. If any person has been appointed agent without consent, that person may file a notarized statement attesting to that fact, and the agent's name will be promptly removed from the records of the department.

NEW SECTION

WAC 208-620-070 Change of registered agent or agent's office for out-of-state licensees. An out-of-state licensee may change its registered agent or its agent's office mailing address on the records of the department by filing with the director a statement of change that sets forth:

(1) The licensee's name;

(2) If the current registered agent's office location is to be changed, the address of the registered agent's new office in accordance with WAC 208-620-060; and

(3) If the registered agent is to be changed, the new registered agent's name, office mailing address in accordance with WAC 208-620-060 and written consent to the appointment.

NEW SECTION

WAC 208-620-080 Resignation of registered agent. A registered agent may resign as agent by filing a signed statement of resignation with the director. The director shall mail a copy of the statement of resignation to the licensee at its headquarters location. The agency appointment is terminated on the 31st day after the date on which the statement of resignation was filed.

NEW SECTION

WAC 208-620-090 Service on out-of-state licensee.

(1) **Service on agent.** An out-of-state licensee's registered agent is the licensee's agent for service of process, notice, or demand as set forth in WAC 208-620-060.

(2) **Service on director.** The director shall be an agent of an out-of-state licensee upon whom any process, notice, or demand may be served if: The licensee fails to appoint or maintain continuously a registered agent in this state; or the registered agent cannot with reasonable diligence be found at its office. Service on the director of any process, notice, or demand is made by delivering to and leaving with the director, or with any assistant director of the department, the process, notice, or demand. In the event any process, notice, or demand is served on the director, the director shall immediately cause a copy of it to be forwarded by certified mail, addressed to the licensee at the licensee's address as shown on the records of the department. Any service on the director must be returnable in not less than thirty days.

NEW SECTION

WAC 208-620-150 Open-end loans—Periodic statements. A licensee must deliver a statement to each borrower with an open-end loan at the end of each billing cycle in which there is an outstanding balance of more than one dollar or in which interest is imposed. This statement

must meet applicable requirements in Regulation Z. If Regulation Z requires that a statement be delivered, this rule does not require the delivery of a separate statement. No statement need be delivered if the licensee believes the account to be uncollectible or if delinquency collection procedures have been instituted.

NEW SECTION

WAC 208-620-180 Examinations. (1) For the purpose of discovering violations of the act or this chapter or securing information lawfully required, the director or designee may investigate the loans and business of every licensee and of every person engaged in the business described in RCW 31.04.035. The director or designee may examine, wherever located, the records used in the business of every licensee and of every person who is engaged in the business described in RCW 31.04.035, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the director or designee shall have access, at reasonable times during business hours, to the offices and places of business, records, safes, and vaults of all such persons. A licensee so examined shall pay to the director the cost of examining and supervising each licensed place of business at the rate specified in WAC 50-20-190(2).

(2) The director or designee shall examine the affairs, business, office, and records of each licensee at least once each twenty-four months.

NEW SECTION

WAC 208-620-200 Change of place of business. A licensee may do business under the act only from the location named on the license. This is not intended to prohibit loans by mail or the closing of real estate-secured loans in an escrow company, a title insurance company or an attorney's office.

A licensee shall not change its place of business to another location until the director has approved the change.

NEW SECTION

WAC 208-620-220 Annual report and annual fee—Due date—Late penalties. (1) **Due date.** The director will mail a notice to each licensee showing the way to calculate the annual fee due along with a worksheet for such purposes and the consolidated annual report form. The licensee will calculate the annual fee on the worksheet. The licensee must submit its completed consolidated annual report, worksheet and annual fee to the office of the director by March 1 of each year.

(2) **Late penalties.** A licensee that fails to submit the required annual report by the March 1 due date is subject to a penalty of fifty dollars for each day of delay.

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-100 ((Books and)) Records. (1) The ((books, accounts,)) records((, and files)) required to be maintained by RCW 31.04.145 may be maintained by means of electronic display equipment if such equipment is made available to the ((supervisor of banking)) director or his or

her representatives for purposes of examination at the ((licensee's place of business)) licensed location.

(2) ((All real estate loans above ten thousand dollars shall be supported by either an appraisal prepared by a qualified independent professional third party appraiser or by the most recent property tax assessment prepared by the county assessor.

(3) ~~No~~) A licensee shall ((take any)) not deliver the proceeds of a loan until all appropriate blanks on the loan forms or instruments ((in which blanks)) are ((not)) filled in completely ((before the proceeds of the loan are delivered)) or marked as "N/A".

((4) Whenever a loan or forbearance is made by mail by a licensee outside Washington state to a person then residing in this state, the licensee shall license such out of state office pursuant to RCW 31.04.055 and 31.04.075.

(5) ~~A licensee may service loans made pursuant to chapter 208, Laws of 1991, at locations outside the state of Washington provided that the licensee shall consent to the supervisor's examination of such loans at that out of state location. All costs which are reasonable and necessary for the examination of the location shall be paid by the licensee.~~)

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-110 The note. ((1) Specimen forms of the written instrument or note evidencing any loan under this act shall be filed with the supervisor of banking.

(2) ~~The~~) Any written instrument or note evidencing a loan under the act shall ((state)) contain the following information:

((a)) (1) The number and date of the loan ((except for)). If the loan is a mail loan((s and)) or live check((s, to which a number shall be affixed)) the licensee shall affix a number after the documents have been returned to the licensed location.

((b) Total amount to be repaid or amount of credit line.

(e)) (2) The principal balance of the loan or, in the case of open-ended credit, the maximum principal balance allowed.

(3) The manner in which it is to be repaid.

((d) Adequate description of any security. Under no circumstance shall a licensee intentionally take a security interest in collateral prohibited under federal law.

(e)) (4) For closed-end loans, the maturity date.

((f)) (5) The rate of interest.

(6) The rate of interest and the method of calculating interest to be collected after the original maturity date.

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-120 Contents of disclosure statement to borrower. (1) The licensee shall ((deliver to the borrower at the time any loan, whether open end or closed end, is made, a statement in the format required by Federal Reserve Board Regulation Z which shall disclose in clear and distinct terms the following information:

(a) ~~The name and address of the licensee.~~

(b) ~~The name and address of the borrower.~~

~~(e) The number and date of the loan except for mail loans and live checks.~~

~~(d) The total amount of the loan.~~

~~(e) List of charges, including:~~

~~(i) Interest rate and amount. This shall be disclosed both as (A) the annual percentage rate (APR) as defined in Regulation Z, 12 (C.F.R. 226), and (B) the simple interest rate, which is the single nominal annual interest rate (stated as a percentage), which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments agreed to by the borrower and calculations were made according to the actuarial method.~~

~~(ii) Loan origination fee.~~

~~(iii) Filing and releasing fee.~~

~~(iv) Title insurance premium.~~

~~(v) Appraisal fee.~~

~~(f) For closed end loans, date of maturity of the loan.~~

~~(g) Rate of interest after original maturity date.~~

~~(h) Description of the security, if any.~~

~~(i) Agreement to permit payment in full before maturity.~~

~~(j) Penalty and charge, if any, of ten cents or less on each dollar of any installment payment delinquent ten days or more.~~

~~(k) Charge for checks returned by bank unpaid.~~

~~(l) Service fees, if any.~~

~~(m) Any other requirements imposed by Regulation Z (Titles I and V of Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146 1/5 U.S.C. 1601-1665.)) comply with all applicable federal laws and regulations, including the Truth in Lending and Real Estate Settlement Procedures Acts.~~

~~(2) Each licensee shall maintain in its files sufficient information (~~must be maintained in the licensee's files~~) to show compliance with state and federal law.~~

AMENDATORY SECTION (Amending WSR 93-16-033, filed 7/27/93, effective 8/27/93)

WAC 50-20-130 Restrictions as to charges. (1) ~~(No)~~ **Filing.** A licensee shall not charge or collect from the borrower any funds for the cost of filing, ~~(recording, releasing, or reconveyance of mortgages, deeds of trust, security agreements, or other documents, or for transferring title certificates to vehicles)~~ as defined in WAC 208-620-010, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing ~~(recording, transferring, releasing, or reconveyance thereof)~~. Fees for releasing or reconveying security for the obligation owed to the licensee may be charged and collected at the time of final payment of the loan.

~~(2) (No licensee may charge and collect an annual fee in excess of thirty five dollars payable each year in advance for the privilege of opening and maintaining an open end loan account.~~

~~(3) No)~~ **Returned checks.** A licensee may not charge or collect a fee in excess of 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 ~~(in the~~

~~event)) even if it has been redeposited and returned ((a second time)) more than once.~~

~~((4) No)~~ **(3) Third-party services.** A licensee may not charge or collect ~~(an appraisal fee incurred or to be incurred in appraising security offered by the borrower)) any fee to be paid to a third-party service provider, as defined in WAC 208-620-010, in excess of the actual costs paid or to be paid ((to an independent third party professional appraiser. Such)). A licensee may charge ((may be made or collected from)) the borrower for costs of ~~(an appraisal)~~ allowable third-party services as provided by RCW 31.04.-105(3) at the time of application for the loan or at any time thereafter except as prohibited ~~(herein)~~. ~~(If the appraisal fee is not collected at the time of the application, the licensee's good faith estimate of that fee shall be given to the borrower at the time of the application.~~~~

~~(5))~~ **(4) Title insurance.** A licensee may agree with the borrower for the ~~(payment by the)~~ borrower ~~((of))~~ to pay the fees charged by a title insurance company ~~(in connection with)~~ for title insurance required by the licensee in connection with a loan. The borrower has the right to select the ~~(person or)~~ title insurance company ~~(by or through whom such title insurance will be offered)~~, subject to the licensee's reasonable conditions, such as the type of coverage or endorsements, or the financial soundness and proper licensing of the company to do business in the state ~~(of Washington)~~. The licensee may select the ~~(person or)~~ title insurance company ~~(by or through whom such title insurance will be offered)~~ if the borrower does not do so within a reasonable time before the loan transaction is consummated.

~~((6))~~ **(5) Noncredit insurance.** A licensee may include the premiums for noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing.

~~((7) In the event)~~ **(6) Existing loans.** If a licensee makes a new loan ~~((where any part of the proceeds is used to pay the amount due on an existing loan within four months from date of origination or of the most recent advance upon an existing loan, an origination fee shall be permitted only to the extent that new money is advanced or the existing credit line increased, unless the origination fee on the existing loan is refunded)) or increases a credit line within four months after originating a previous loan or credit line to the same borrower, the origination fee on the new loan or increased credit line shall be limited as follows:~~

~~(a) Loan.~~ The licensee may charge an origination fee only on that part of the new loan not used to pay the amount due on the previous loan.

~~(b) Credit line.~~ The licensee may charge an origination fee only on the difference between the amount of the existing credit line and the increased credit line.

~~(c) Exception.~~ The limits in (a) and (b) of this subsection do not apply if the licensee refunds the origination fee on the existing loan or credit line.

~~((8))~~ **(7) Prepayment penalty.** A licensee may not collect a prepayment penalty ~~((except as preempted by federal law))~~ on any loan made at rates authorized by the act.

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-140 Advertising. A licensee shall maintain a copy of all ((direct mail)) advertising ((shall be sent by the company to the supervisor of banking)) for a period of two years at a location approved by the director. Such copies shall include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any advertising distributed directly by delivery, facsimile or computer network.

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-150 Other business in same office. (1) ~~((No))~~ Office sharing. A licensee ~~((will be permitted to))~~ may conduct its business ~~((within an office, room or place of business))~~ in a licensed location in which other persons or entities engage in business ~~((is solicited or engaged in, or in association or in conjunction therewith, if the supervisor of banking shall find, after five days written notice, and after a hearing, that the other business has concealed or facilitated evasion of the Consumer Loan Act. If the supervisor so finds, he shall order such licensee in writing to desist from such conduct)).~~

(2) ~~((No))~~ Business only under licensed name. A licensee ~~((shall))~~ may transact ~~((such))~~ business or make any loan ~~((provided for or by this))~~ subject to the act only under ~~((any other))~~ the name ~~((or at any other place of business than that named))~~ on the license. ~~((This is not intended to prohibit loans by mail or the closing of real estate secured loans in an escrow company, a title insurance company, or an attorney's office.))~~

(3) Sale of incidental products. A licensee may engage in the sale of incidental products on the premises of the licensed location ~~((upon))~~ only after receiving approval from the ~~((supervisor of banking))~~ director. The cost of such products may, at the consumer's option, be ~~((payable))~~ paid from the proceeds of the ~~((consumer))~~ loan and included in the ~~((amount financed))~~ principal balance provided that:

(a) The ((sale)) purchase of the product is not a factor in the approval of credit and this fact is clearly disclosed in writing to the consumer; and

(b) In order to obtain the product the consumer gives specific affirmative written indication of his or her desire to purchase the product after receiving disclosure of the cost.

~~((4))~~ No licensee shall change its place of business to another location unless and until authority for such change shall have been granted by the supervisor of banking.))

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-160 Open-end loans—Increase in interest—Notice to borrower. A licensee is not required to give thirty days written notice of an increase in the interest rate charged on an open-end loan pursuant to RCW 31.04.115(6), if the following conditions are met:

(1) The interest rate charged on the open-end loan is based upon a commonly published index or upon an index approved by the ~~((supervisor))~~ director; and

(2) The borrower has agreed in writing prior to the increase to base the interest rate on the index.

AMENDATORY SECTION (Amending WSR 91-22-035, filed 10/30/91, effective 1/1/92)

WAC 50-20-190 Schedule of fees. ~~((The rate of charges for review of applications and attendant investigations other than regular examinations covered in WAC 50-44-030(1) shall be at the rate prescribed in WAC 50-12-045(2).))~~ The director shall collect fees for services as specified below:

(1) Applications and certificates.

(a) A charge of ninety dollars per hour for services plus actual expenses for review of application and attendant investigation for:

(i) New consumer loan company certificate of authority or licensed location certificate;

(ii) Branch licensed locations certificate;

(iii) Relocation of main office or branch;

(iv) Notice of change of control;

(v) Opinions rendered regarding interpretations of statutes and rules.

(b) A fee of one hundred dollars for issuing the following certificates:

(i) Certificate of authority;

(ii) Licensed location certificate;

(iii) Certificate of good standing.

(2) Examinations. A charge of sixty-five dollars per hour for regular and special examinations of the licensee's records. The director will submit a statement for the charges following the completion of any applicable examination. The charges must be paid within thirty days after the statement is submitted to the licensee.

(3) Annual assessment fee.

(a) An annual assessment fee based on adjusted total loan value as defined in (b) of this subsection. The amount of the annual assessment fee is .000169792 multiplied by the adjusted total loan value as calculated from the consolidated annual report for the previous calendar year.

(b) The "adjusted total loan value" is the sum of:

(i) The total unpaid balance of loans originated subject to the act that were retained or purchased by the licensee; and

(ii) The total unpaid balance of loans originated subject to the act that were sold by the licensee with servicing retained (if any); and

(iii) The total amount of loans originated subject to the act that were sold by the licensee during the previous calendar year with servicing released (if any).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 50-20-170 File for official correspondence and reports.

WAC 50-20-200 Transitional rule.

WSR 96-04-015
PERMANENT RULES
TRANSPORTATION IMPROVEMENT BOARD

[Filed January 29, 1996, 10:16 a.m.]

Date of Adoption: January 29, 1996.

Purpose: (1) Correction to WAC 479-12-008 and 479-112-0055 concerning eligibility for the TIA and UATA programs to conform to the RCW and revising the definition of a UATA eligible project to be the same as for the TIA program; (2) amendment to WAC 479-20-013 to allow capital expenditures to be eligible costs for TIB funded projects.

Citation of Existing Rules Affected by this Order: Amending WAC 479-12-008, 479-112-0055, and 479-20-013.

Statutory Authority for Adoption: RCW 4.26.086, 47.26.080, and 82.44.180.

Adopted under notice filed as WSR 96-01-100 on December 19, 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 3, 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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 29, 1996

Jerry M. Fay

Executive Director

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-12-008 Definitions. For purposes of implementing the requirements of RCW 47.26.185 relative to the urban arterial trust account, the following definitions shall apply:

(1) Board - when board is used in this chapter, it refers to the transportation improvement board.

(2) UATA - this is the abbreviation for the urban arterial trust account.

(3) Director - the executive director of the transportation improvement board.

(4) Eligible agencies - the urban arterial trust account eligible agencies are the counties with ~~((federal designated))~~ urban areas ~~((and all urban))~~, cities within an urban area, and cities with a population of five thousand or above.

(5) Urban area - the term "urban area" as used for the UATA program refers to the portion of a county within the federal urban area boundary as designated by FHWA.

(6) Eligible projects ~~((-improvement on federally classified arterials within the urban area)).~~

(a) Improvements on federally classified arterials.

(b) Improvement involving state highway and transit when they are part of a joint project with eligible agencies.

(c) A project within the federal urban boundary or a project that extends partially or is totally beyond the federal urban boundary and is an extension of a federally classified arterial which connects two other federally classified arterials.

(d) A project that is on the federal functional classification system and in an area that is outside of the federal urban boundary, but has definite urban characteristics as defined by local comprehensive plans.

AMENDATORY SECTION (Amending WSR 95-04-072, filed 1/30/95, effective 3/2/95)

WAC 479-20-013 Direct costs. Direct costs eligible for board participation are those costs which are directly attributable to a specific project and shall include:

(1) Direct labor (engineering and/or construction) including related employee benefits:

(a) Salaries and wages (at actual or average rates) covering productive labor hours of city and county employees (excluding the administrative organization of the operating unit involved) for periods of time, actively or incidentally engaged in (i) predesign engineering, (ii) design engineering, (iii) construction engineering, (iv) acquisition of rights of way, and (v) actual construction activities are considered a direct cost of construction projects. The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full time basis the types of services described above and when similar procedures are followed for nonboard projects.

(b) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

(i) F.I.C.A. (Social Security) - employer's share

(ii) Retirement benefits

(iii) Hospital, health, dental and other welfare insurance

(iv) Life insurance

(v) Industrial and medical insurance

(vi) Vacation

(vii) Holiday

(viii) Sick leave

(ix) Military leave and jury duty

Employee benefits shall be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs shall be based upon the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(2) Contract engineering services

(3) Right of way acquisition costs including:

(a) Purchase of land and easements acquired for and devoted to the project;

(b) Purchase of improvements;

(c) Adjustment or reestablishment of improvements;

(d) Salaries, expenses or fees of appraisers, negotiators or attorneys;

(e) Removal or demolition of improvement;

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(f) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals shall be a reduction of the direct cost.

(4) Contract construction work, and/or capital equipment acquisition approved by the board.

(5) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county owned equipment, at the rental rates established by the city's or county's "equipment rental and revolving fund" following the methods prescribed by the division of audit: *Provided*, That such costs shall be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of 8,000 or less which may not use this type of fund shall be allowed the same rates as used by the department of transportation.

(6) Direct materials and supplies. The cost of materials used in projects shall be based upon methods prescribed for the "equipment rental and revolving fund" by the division of audit.

(a) An overhead rate or "loading factor" shall not be considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(b) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, shall be considered a reduction of direct costs. Any material which may be salvaged in connection with a project shall be assigned a reasonable value and considered a reduction of direct costs.

(7) Interdepartmental charges for work performed by county or city departments, other than the road or street department, for the benefit of specific construction projects shall be limited to direct costs plus an allocation of indirect costs based upon 10% of direct labor dollars, excluding employee benefits. Such indirect costs shall be determined by a rate which is readily and properly supportable by the governmental unit's accounting records and shall be the same rate as applied to nonboard projects; however, this rate shall not exceed the indirect cost allocation rate established by the board. If individual units of government do not have such an internal indirect cost allocation rate, the rate predetermined by the board shall be used in determining the amount of indirect costs includable in the total interdepartmental charges.

(8) Other direct costs incurred for materials or services acquired for a specific project shall be eligible for participation by board funds and may include, but shall not be limited to, such items as:

- (a) Telephone charges
- (b) Reproduction and photogrammetry costs
- (c) Computer usage
- (d) Printing and advertising.

AMENDATORY SECTION (Amending WSR 95-22-056, filed 10/30/95, effective 11/30/95)

WAC 479-112-0055 Definitions. For purposes of implementing the requirements of RCW 47.26.084 relative to the transportation improvement account, the following definitions shall apply:

(1) Board - when board is used in this chapter, it refers to the transportation improvement board.

(2) Director - the executive director of the transportation improvement board.

(3) Urban area - the term "urban area" as used in this chapter refers to the portion of a county within the federal urban area boundary as designated by FHWA.

(4) Eligible agencies - the transportation improvement account eligible agencies are:

(a) Counties that have an urban area.

(b) All cities with a population of five thousand ((and over)) or more.

(c) Urban area transportation benefit districts.

(5) Eligible projects.

(a) Improvements on federally classified arterials.

(b) Improvement involving state highway and transit when they are part of a joint project with eligible agencies.

(c) A project within the federal urban boundary or a project that extends partially or is totally beyond the federal urban boundary and is an extension of a federally classified arterial which connects two other federally classified arterials.

(d) A project that is on the federal functional classification system and in an area that is outside of the federal urban boundary, but has definite urban characteristics as defined by local comprehensive plans.

WSR 96-04-019
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD
 [Filed January 30, 1996, 10:21 a.m.]

Date of Adoption: January 26, 1996.

Purpose: Provide an exception to the rule governing the eligible student definition for the 1995-96 academic year.

Citation of Existing Rules Affected by this Order: Amending WAC 250-20-021.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Adopted under notice filed as WSR 95-23-105 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 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 26, 1996
John Klacik
Associate Director for
Student Financial Aid

AMENDATORY SECTION (Amending WSR 93-08-010
[95-17-045], filed 3/25/93 [8/11/95])

WAC 250-20-021 Program definitions. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unlikely to aspire to, or enroll in, higher education. Generally, this shall mean a dependent student whose parents have not attained a college education and/or whose family income is substantially below the state's median.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Accrediting Bureau of Health Education Schools, the Accrediting Council for Continuing Education and Training, the Accrediting Commission of Career Schools and Colleges of Technology, the Accrediting Council for Independent Colleges and Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15-011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

- (a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,
- (b) Is a veteran of the U.S. Armed Forces; or,
- (c) Is an orphan or ward of the court; or,
- (d) Has legal dependents other than a spouse; or,
- (e) Is a married student or a graduate/professional student; or,

(f) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is the standard student cost per sector, as developed by the board.

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For example, in the 1992-93 academic year, the value of the statutory ceiling is \$13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of \$6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of \$2,274, plus the current average state appropriation per student for operating expenses in all public institutions of \$4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When such adjustments are made they shall be consistent with

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guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant. The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding. With the exception of the 1995-1996 academic year, ((F)) in no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance for each sector. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding. The maximum base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

For certain students who have completed board approved early awareness and preparation programs such as the Washington National Early Intervention Scholarship Program or a Trio program, the base grant will be an amount fixed annually by the board. Generally the base grant, in these cases, will be no less than the current value of the federal PELL grant program.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State need grant award" is the maximum base grant adjusted according to level of family income, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of creditor clock hours for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of creditor clock hours for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term.

Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

(20) The term "full institutional accreditation" shall mean the status of public recognition that an accrediting agency recognized by the U.S. Department of Education grants to an educational institution that meets the agency's established standards and requirements. Institutional accreditation applies to the entire institution, indicating that each of an institution's parts is contributing to the achievement of the institution's objectives.

(21) The term "eligible program" for a public or private nonprofit educational institution, shall mean an associate or baccalaureate degree program; at least a two-year program that is acceptable for full credit toward a bachelor's degree, or at least a one-year educational program that leads to a degree or certificate and prepares the student for gainful employment in a recognized occupation. The term "eligible program" for a for-profit or a postsecondary vocational institution shall mean a program which provides at least a 15-week undergraduate program of 600 clock hours, 16 semester hours, or 24 quarter hours. The program may admit students without an associate degree or equivalent. The term "eligible program" for a for-profit or a postsecondary vocational institution may also be a program that provides at least a 10-week program of 300 clock hours, 8 semester hours, or 12 quarter hours. A program in this category must be an undergraduate program that admits only students with an associate degree or equivalent. To be an "eligible program," a program must be encompassed within the institution's accreditation and be an eligible program for purposes of the federal Title IV student financial aid programs.

(22) A "for-profit institution" is a postsecondary educational institution other than a public or private nonprofit institution which provides training for gainful employment in a recognized profession.

(23) A "postsecondary vocational institution" is a public or private non-profit institution which provides training for gainful employment in a recognized profession.

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

WSR 96-04-020
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed January 30, 1996, 11:25 a.m.]

Date of Adoption: January 23, 1996.

Purpose: To require major party candidates for the office of governor who use the full reporting option to participate in any electronic filing program implemented by the Public Disclosure Commission.

Statutory Authority for Adoption: RCW 42.17.080(7).

Adopted under notice filed as WSR 96-01-108 on December 19, 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 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 1, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 30, 1996
Melissa Warheit
Executive Director

NEW SECTION

WAC 390-16-190 Electronic filing. (1) All major political party candidates who are candidates for the office of governor and who are not using abbreviated or mini campaign reporting pursuant to WAC 390-16-105 or 390-16-150 are required to participate in any electronic filing program implemented by the commission.

(2) Participants in the electronic filing program are not required to re-file reports already submitted on paper forms, but only those reports due after the implementation of the program.

WSR 96-04-021
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION
[Filed January 30, 1996, 11:27 a.m.]

Date of Adoption: January 23, 1996.

Purpose: Initiative 134 requires the Public Disclosure Commission, at the beginning of each even-numbered year, to increase or decrease dollar amounts found therein, based on changes in economic conditions, as reflected by an inflationary index recommended by the Office of Financial Management.

Statutory Authority for Adoption: RCW 42.17.690.

Adopted under notice filed as WSR 96-01-109 on December 19, 1995.

Changes Other than Editing from Proposed to Adopted Version: Adopted version increases dollar amounts found in Initiative 134, including contribution limits, but does not otherwise increase reporting thresholds and code values for campaign finance, lobbyist, and financial affairs reports.

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 1, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 30, 1996
Melissa Warheit
Executive Director

NEW SECTION

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions, the following revisions are made:

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Code Section	Subject Matter	Amount Enacted or Last Revised	1996 Revision
.020	Definition of "Independent Expenditure"	\$500	\$550
.125	Reimbursement of candidate for loan to own campaign	\$3,000	\$3,500
.180(1)	Report— Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$10,000 \$500	\$11,000 \$550
.640(1)	Contribution Limits- Candidates for state leg. office Candidates for other state office	\$500 \$1,000	\$550 \$1,100
.640(2)	Contribution Limits- State official up for recall or pol comm. supporting recall- State Legislative Office Other State Office	\$500 \$1,000	\$550 \$1,100
.640(3)	Contribution Limits- Contributions made by political parties and caucus committees State parties and caucus committees County and leg. district parties Limit for all county and leg. district parties to a candidate	.50 per voter .25 per voter .25 per voter	.55 .28 .28
.640(4)	Contribution Limits- Contributions made by pol. parties & caucus committees to state official up for recall or committee supporting recall State parties and caucuses County and leg. district parties Limit for all county & leg. district parties to state official up for recall or pol. comm. supporting recall	.50 per voter .25 per voter .25 per voter	.55 .28 .28
.640(5)	Limits on contributions to political parties and caucus committees To caucus committee To political party	\$500 \$2,500	\$550 \$2,750
.740	Contribution must be by written instrument	\$50	\$55

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WSR 96-04-022
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 30, 1996, 3:52 p.m.]

Date of Adoption: January 30, 1996.

Purpose: To limit the dollar amount of the semiannual asset charge assessment for in-state and interstate banks; provide a basis for calculating fees to be paid by interstate banks; and to avoid double assessments on banks with branches in Washington and another state. In addition, the amendment to WAC 50-44-020 limits the total amount of assessment paid by any bank to \$133,490.

Citation of Existing Rules Affected by this Order: Amending WAC 50-44-020.

Statutory Authority for Adoption: RCW 43.320.010, 43.329.040 [43.320.040], and 30.04.030.

Adopted under notice filed as WSR 96-01-019 on December 8, 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 1, 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 30, 1996

John L. Bley
Director

AMENDATORY SECTION (Amending WSR 91-18-054, filed 8/30/91, effective 9/30/91)

WAC 50-44-020 Semiannual asset charge—Assessment. A semiannual charge for assets will be used to recoup nondirect bank examination related expenses (RCW 30.08.095). The semiannual charge for assets will be computed upon the asset value reflected in the most recent report of condition. The rate of such charge shall be as set forth in the following schedules:

(1) Commercial banks, mutual savings banks, and stock savings banks.

The rate of such charge shall be based on the total asset value as reflected in the report of condition due for that period provided, the ~~((supervisor))~~ director may adjust such rates if the ~~((supervisor))~~ director determines that a disproportionate amount of revenue is being collected by such rate. In no event shall the amount of revenue collected from any one bank exceed one hundred thirty-three thousand four hundred ninety dollars per assessment period.

If the bank's total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.00001408	0
500	1000	7040	.0000135	500
1000	—	13,790	.0000133	1000

(2) Alien banks.

The rate of such charge shall be .000035189 of the total asset value as reflected in the report of condition due for that period provided, the ~~((supervisor))~~ director may adjust such rate if the ~~((supervisor))~~ director determines that a disproportionate amount of revenue is being collected by such rate.

~~(3) ((Industrial loan companies and, effective January 1, 1992, consumer finance licensees under chapter 208, Laws of 1991.~~

~~The rate of such charge shall be .000084896 of the total asset value as reflected in the consolidated annual report of Washington assets or semiannual notice of assessment of Washington assets (whichever is applicable) due for that period provided, the supervisor may adjust such rate if the supervisor determines that a disproportionate amount of revenue is being collected by such rate.)~~

The ~~((supervisor's))~~ director's office shall forward by United States mail a notice to each financial institution showing the manner of calculating the asset charge due and a worksheet for such purposes. The notices shall be mailed

~~with the blank June and December report of condition ((commencing with the June 1990 report of condition applicable to commercial, savings and alien banks and the consolidated annual report and a semiannual notice of assessment applicable to industrial loan companies)). The asset charge shall be calculated by the financial institution and forwarded to the ((office of the supervisor of banking)) division of banks with the applicable report. A completed copy of the worksheet shall be included with the assessment. An additional two hundred dollar penalty shall be assessed if the amount is not paid by the time such report of condition or notice of assessment is due.~~

NEW SECTION

WAC 50-44-025 Fees paid by interstate banks. (1) Semiannual asset charge. The semiannual asset charge established in WAC 50-44-020 shall be assessed against any state-chartered bank, as defined in 12 U.S.C. sec. 1813(a), that operates branches in Washington and any other state. The assets subject to assessment under WAC 50-44-020(1) shall be determined as follows: Divide the number of branches in Washington by the total number of branches in all states including Washington and multiply the result by the asset value reflected in the most recent report of condition.

(2) **Other fees.** All other fees that normally apply to Washington-chartered banks under WAC 50-44-030 and 50-12-045 shall also be paid by banks chartered in other states.

**WSR 96-04-027
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Wildlife)**

[Filed February 1, 1996, 11:48 a.m.]

Date of Adoption: December 9, 1995.

Purpose: Amend personal use hunting rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-131, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02210, 232-28-02220, 232-28-02240, 232-28-02250, 232-28-02270, 232-28-02280, 232-28-02290, 232-28-240, 232-28-241, 232-28-242, 232-28-246, 232-28-248, 232-28-249, 232-28-257 and 232-28-260; and repealing WAC 232-28-206, 232-28-209, 232-28-21201, 232-28-215, 232-28-216, 232-28-225, 232-28-404, 232-28-407, 232-28-60101, 232-28-60102, 232-28-604, 232-28-60415, 232-28-605, 232-28-60508, 232-28-61610, 232-28-812, 232-24-120, 232-12-827, and 232-12-831.

Statutory Authority for Adoption: RCW 77.12.010, 77.12.040.

Adopted under notice filed as WSR 95-22-112 on November 1, 1995.

Changes Other than Editing from Proposed to Adopted Version:

The adopted version of WAC 232-12-131 differs from the version filed with the code reviser in the following specifics:

1. Section 3 was split into Section 3 and Section 4.

PERMANENT

Section 3. It is unlawful for a person receiving a special hunting season permit for mountain sheep (~~(or moose))~~) to apply for another permit for that species.

Section 4. It is unlawful for a person receiving a special hunting season permit for moose to apply for another permit for that species.

The adopted version of WAC 232-28-02203 differs from the version filed with the code reviser in the following specifics:

1. Beginning with line 16 of GMU 340, the boundary description was changed to: ... along the Manastash Ridge to USFS Trail 694 (T17N, R15E, NW 1/4 of Section 12) near USFS fence; then northwest on ORV Trail 694 to ORV Trail 688 near Rocky Saddle, then northwest on ORV Trail 688 to USFS Trail 1388 to Quartz Mountain ...

2. Beginning with line 3 of GMU 346 the boundary description was changed to: ... 1388 to USFS ORV Trail 688 to Rocky Saddle; then east on USFS ORV Trail 694 to USFS Road 1701 near the USFS fence (T17N, R15E, NW 1/4 of Section 12); ...

3. In GMU 360 the word "Road" is inserted before 1500 in lines one and three.

The adopted version of WAC 232-28-02204 differs from the version filed with the code reviser in the following specifics:

1. In GMU 417-Bald Mountain on line 13 State Street was added to read ... along SR 20 to State Street to Burpee Hill Road ...

The adopted version of WAC 232-28-02205 differs from the version filed with the code reviser in the following specifics:

1. The boundary description of GMU 574 beginning on line 4 was changed as follows: ... then southeast on the Wind River Road to Old State Road, then east on Old State Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to USFS Road 60; then northeast on USFS Road 60 to State Highway 141; continue east on State Highway 141 to USFS Road 86, ...

The adopted version of WAC 232-28-02210 differs from the version filed with the code reviser in the following specifics:

1. A new deer area was adopted as follows: Deer Area 020 Desert (Grant County): That part of GMU 278 (Wahluke) north of O'Sullivan Road and east of Beverly Road.

2. Another new deer area was adopted as follows: Deer Area 062 Indian Island (Kitsap County): Indian Island in Jefferson County.

The adopted version of WAC 232-28-02220 differs from the version filed with the code reviser in the following specifics:

1. In Elk Area 058 West Goat Rocks, the name Cascade Crest Trail was changed to Pacific Crest Trail.

The adopted version of WAC 232-28-02250 differs from the version filed with the code reviser in the following specifics:

1. The last line of the boundary description of Goat Unit 5-4 was changed from Road 1302 to Road 21.

2. The boundary description for Goat Unit 6-2 Quilcene River was added as follows: Goat Unit 6-2 Quilcene River: Permit Area: Clallam and Jefferson counties outside of

Olympic National Park, east of the Dungeness River and north of the Dosewallips River.

The adopted version of WAC 232-28-02290 differs from the version filed with the code reviser in the following specifics:

1. Line 5 of PLWMA 201 description was changed as follows: Section((s)) 5 and Section 6 north of State Highway 28, Sections 8, and 9 ...

2. Line 25 of PLWMA 401 description was changed by replacing the word east with west.

The adopted version of WAC 232-28-240 differs from the version filed with the code reviser in the following specifics:

1. On page one the following GMUs were added to the 3 point GMUs: 328, 329, 330 and 342.

2. On page two the General Modern Firearm Deer Season dates in Okanogan County were changed for 1996 from GMUs 200-242, October 12-25 to the following:

GMUs 200-209, 239-242, October 12-20

GMUs 215, 218, 224, 231, 233, October 12-20, except 3 Pt. min. in GMU 231.

3. Also on page two the General Modern Firearm Deer Season in the Columbia Basin was changed by inserting an asterisk after the number 278 and footnoting the change as "Except permit only in that part of GMU 278 (Wahluke) north of O'Sullivan Road and east of Beverly Road."

4. Also on page two the General Modern Firearm Deer Season in Colockum and central Washington was changed for 1996

from: GMUs 328, 329, 330, 371 October 12-20, Buck only

to: GMUs 328, 329, 330, 342, 371 October 12-18, 3 Pt. min.

and from: GMUs 335-368, 371 October 12-31, Buck only

to: GMUs 335-340, 346-368, 372 October 12-31, Buck only.

5. On page three under the single asterisk the GMUs were changed from GMUs 100-140 to GMUs 105-142.

6. Under early archery deer seasons on page 3, the line beginning with GMUs 239, 248-284, 308 was changed to 239, 248-272, 278*, 281-284, 308. The asterisk footnote reads "Except permit only in that part of GMU 278 (Wahluke) north of O'Sullivan Road and east of Beverly Road."

7. Under early archery deer seasons, the hunts in GMUs 328-334, 480 were changed to:

328, 329, 330, September 1-14, 3 Pt. min.

480 remains September 1-14, Buck only and September 15-30 Either sex.

8. Under the extended late archery seasons GMU 625 was deleted.

9. Under firearm restricted deer hunts open to all deer hunters, GMU 625 was deleted and replaced with Deer Area 062**, Archery, Shotgun, Muzzleloader, September 1-December 31, Either sex. The asterisk footnote is "restricted access. For information call Bill Kalina at (360) 396-5353."

10. On page 10, the phrase "bear may be killed unless otherwise provided" was added after western Washington.

11. The following additional bear season was added after Bow Area 802, and July 13-September 7 and September 26-October 31 in PLWMA 401.

The adopted version of WAC 232-28-241 differs from the version filed with the code reviser in the following specifics:

1. On page eight the fall turkey season in Asotin, Columbia, Garfield, and Walla Walla counties dates were changed to November 27-December 1.

The adopted version of WAC 232-28-242 differs from the version filed with the code reviser in the following specifics:

1. On page one, GMU 302 was added as a spike only GMU.

2. GMUs 621 and 636 were dropped as 3 Pt. min. GMUs and GMUs 524, 556 and 602 added as permit only 3 Pt. min. GMUs.

3. In the first paragraph on page two the letter B is replaced with the word "General" and the letter C is replaced with the word "Permit."

4. On pages 2 and 3 all modern firearm elk tag designations were changed as follows:

BB to BG	Blue Mountains Bull Tag to Blue Mountains Modern General Tag
BC to BP	Blue Mountains Permit Applicant Tag to Blue Mountains Modern Permit Applicant Tag
CB to CG	Colockum Bull Tag to Colockum Modern General Tag
CC to CP	Colockum Permit Applicant Tag to Colockum Modern Permit Applicant Tag
YB to YG	Yakima Bull Tag to Yakima Modern General Tag
YC to YP	Yakima Permit Applicant Tag to Yakima Modern Permit Applicant Tag
WB to WG	Western Washington Bull Tag to Western Washington Modern General Tag
WC to WP	Western Washington Permit Applicant Tag to Western Washington Modern Permit Applicant Tag

5. In the Western Washington Tag Area, GMUs 621 and 636 were deleted.

6. On page 3 the same elk tag letter and description changes as described on the previous page are repeated for all modern firearm elk seasons.

7. Under early archery elk seasons on page 3, GMU 127 is added: GMUs 100-124, 127, 130-142. September 1-14, Either sex.

8. On page 4, GMU 607 was dropped from early archery elk hunts.

9. Also on page 4, GMU 127 was added to the late archery elk seasons, November 27-December 15, Either sex.

10. On page 5, GMU 636 was dropped as a late archery deer hunt.

11. On page 6, GMU 636 was dropped as an early muzzleloader elk hunt.

12. The season dates for the muzzleloader elk hunt in ML Area 910 were changed from September 1-30 to September 1-15.

13. Under special elk hunts open to specified tag holders, the elk tag letters have changed as indicated in Item 4 on the previous page. The letter changes are as follows:

BB to BG, BC to BP, YB to YG, YC to YP, WB to WG, WC to WP, CB to CG, and CC to CP.

The adopted version of WAC 232-28-246 differs from the version filed with the code reviser in the following specifics:

1. On page 5, a new hunt was added as Hunt Number 1046, Desert A, November 1-15, Buck only, Deer Area 020.

2. On page 5, Hunt Numbers 1047 and 1048 have the double asterisk replaced with the words "2 deer limit."

3. The double asterisk footnote on page 6 was deleted.

4. The hunt in the Whitman unit was deleted.

5. Dates for the Blue Mountain Foothills C and D hunts were changed from October 10-20 to October 12-20.

6. A new deer hunt was added for Deer Archery only as Hunt Choice No. 1098, Desert B, September 1-30, Buck only, Deer Area 020.

7. On page 8, the title Special Hunts for Disabled, Blind or Visually Impaired was changed to Special Hunts for Persons of Disability.

8. Under the Wilson Creek Private Lands Wildlife Management Permit Opportunities, several edits were made to Special Restrictions:

Wilson B - Young Hunters Only to Youth Hunters Only

Wilson C - Young Hunters Only to Youth Hunters Only

Wilson D - Disabled, or Blind/Visually Handicapped Hunters Only to Persons of Disability.

9. On page 10 the restrictions for Kapowsin South were changed from Young or Disabled, Blind/Visually Handicapped Hunters Only to Young or Persons of Disability.

10. On pages 13, 14, 15, 17, and 18 the modern firearm elk tag letters have been changed to reflect the current designation. BC to BP, CC to CP, YC to YP, WB to WP.

11. The hunt Peola was renamed Peola A and the following hunt called Peola B added: November 2-10. Antlerless Only, BP or BM, GMU 178.

12. GMU 304 was added to GMUs 300, 301, 306, 308, and 316 in the Chelan B hunt.

13. On page 15 the South Willapa hunt was deleted.

14. On page 17, the elk tag WB was changed to WG in the Kapowsin Spike D and E hunts.

15. The title Special Hunts for Disabled, Blind or Visually Impaired on page 17 was changed to Special Hunts for Persons of Disability.

16. The boundary description for hunt 3007 South Bank C is Elk Area 062.

17. On page 19, the Chinook Hunt was deleted.

The adopted version of WAC 232-28-248 differs from the version filed with the code reviser in the following specifics:

1. Under Big Game Closures on page 2, the second to last line of 1. Cathlamet was changed as follows: ... closed to all (~~big game~~) deer and elk ...

The adopted version of WAC 232-28-249 differs from the version filed with the code reviser in the following specifics:

1. On page 4, Goat Unit 6-2 Quilcene River was added with the following asterisk footnote "goat permits may or may not be available for this unit."

2. The opening date of the Eastern and Western Washington pursuit and general cougar seasons was changed from November 20 to November 27 including Cougar Units 5 and 6.

The adopted version of WAC 232-28-257 differs from the version filed with the code reviser in the following specifics:

1. Under Auction Hunt Permittee Rules, number (2) the sentence was changed as follows: The permittee may be accompanied by others; however, only the permittee is allowed to carry a ~~((firearm))~~ legal weapon ~~((and))~~ or harvest an animal.

The adopted version of WAC 232-28-260 differs from the version filed with the code reviser in the following specifics:

1. In Section 1 (c) the words disabled, blind or visually impaired were replaced with the description "persons of disability."

2. Section 3 (b) was changed as follows: To qualify for the drawing, all applications must be postmarked no later than the ~~((last))~~ first Friday of ~~((April))~~ May or received ...

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 19, amended 0, repealed 19.

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 22, 1996

Mitchell S. Johnson, Chairman
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 94-145, filed 1/10/95, effective 2/10/95)

WAC 232-12-131 Permits for special hunting and trapping seasons. (1) Holders of valid hunting licenses may apply for permits for special hunting seasons as prescribed by the commission.

(2) Holders of valid trapping licenses may apply for permits for special trapping seasons as prescribed by the commission.

~~(3) ((It is unlawful for a person receiving a special hunting season elk permit to apply for an elk permit for the next two years. Those hunters drawing special hunting season elk permits for hunts designated for disabled or blind/visually impaired, and muzzleloader only are exempt from the two year waiting period.~~

~~(4) It is unlawful for a person receiving a special hunting season cougar permit to apply for such a permit for the next two years. A person applying for a cougar permit during that period will be made ineligible for that year's drawing.~~

~~(5) It is unlawful for a person receiving a special hunting season goat permit to apply for such a permit for the~~

~~next five years. A person applying for a goat permit during that period will be made ineligible for that year's drawing.~~

~~(6)) It is unlawful for a person receiving a special hunting season permit for mountain sheep to apply for another permit for that species ((if they are successful in taking a mountain sheep. A person who receives a special permit for mountain sheep and is unsuccessful in taking a sheep may reapply after waiting for five years. A person applying for a sheep permit during that period will be made ineligible for that year's drawing.~~

~~(7) It is unlawful for a person receiving a moose permit to apply for another permit for that species)).~~

(4) It is unlawful for a person receiving a special hunting season permit for moose to apply for another permit for that species.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 232-12-827 Hunting of game animals by persons of disability.
- WAC 232-12-831 Assistance to the visually handicapped.

AMENDATORY SECTION (Amending WSR 95-11-027, filed 5/10/95, effective 6/10/95)

WAC 232-28-257 Big game auction permits.

AUCTIONING OF PERMIT

The Director will select a conservation organization(s) to conduct the 1996 auction(s). Selection of the conservation organization will be based on criteria developed by the Washington Department of Fish and Wildlife. The organization shall notify the Department of the name of and address of the successful bidder within ten days of the auction.

AUCTION PERMIT HUNT(S)

SPECIES - ELK

Hunting Season Dates: September ~~((4-December))~~ 15 - 30, 1996

Hunt Area: ~~((Any game management unit open to elk hunting except GMUs 157 (Watershed) and))~~ GMU 485 (Green River) and GMU 346 (Little Naches).

Bag Limit: One bull elk

AUCTION HUNT PERMITTEE RULES

(1) Permittee shall contact the appropriate regional office of the Department of Fish and Wildlife when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a ~~((firearm and))~~ legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the Department, the permittee is required to accompany Department officials to the site of the kill.

NEW SECTION

WAC 232-28-260 Special hunting season permit drawings. (1) Deer and elk special hunting season permit application:

(a) To apply for a special hunting season permit for deer, applicants must have a valid Washington hunting license and a valid deer transport tag. Each applicant must have the proper transport tag as identified in the current special deer hunting permit tables.

(b) To apply for a special hunting season permit for elk, applicants must have a valid Washington hunting license and a valid elk transport tag. Each applicant must have the proper transport tag as identified in the current special elk hunting permit tables.

(c) Only applicants with a Washington disabled hunter permit will be eligible to apply for special hunts for persons of disability.

(d) Only applicants sixteen years old or younger on opening day of the special hunting season will be eligible to apply for special hunting season permits for youth.

(e) Only applicants sixty-five years of age or older on opening day of the special hunting season will be eligible to apply for special hunting season permits for seniors.

(f) Only applicants who have successfully completed the Washington department of fish and wildlife advanced hunter education (AHE) course will be eligible to apply for special hunting season permits for AHE course graduates. A certification card will be issued to all AHE graduates which must be in the hunter's possession while hunting during these seasons.

(g) No refunds or exchanges for deer or elk transport tags will be made for persons applying for special hunting season permits.

(h) Holders of deer or elk special hunting season permits may hunt only with a weapon in compliance with their transport tag during the special hunting season.

(2) Mountain goat, moose, mountain sheep, and cougar special hunting season permit applications:

(a) To apply for a special hunting season permit for mountain goat, moose, mountain sheep, or cougar applicants must have a valid Washington hunting license. Those who have previously drawn a Washington mountain sheep or moose permit are ineligible to apply for that species.

(b) No refunds or exchanges for mountain goat, moose, mountain sheep, or cougar transport tags will be made for persons drawing for special hunting season permits.

(c) Permit hunting report: A hunter report will be sent to each mountain goat, moose, mountain sheep, and cougar special hunting season permit holder and must be returned to the department of fish and wildlife within ten days after the close of the special hunting season.

(3) General special hunting season permit application:

(a) Partnership applications will be accepted for any species. A partnership consists of two hunters. If a partnership application is drawn, both hunters will receive a permit and both hunters can take an animal.

(b) Application deadline: To qualify for the drawing all applications must be postmarked no later than the first Friday of May or received at a department of fish and wildlife office no later than 5:00 p.m. on the first Friday of May of the year of the drawing.

(c) An applicant's name may appear on only one single special permit application or one partnership application for each species. If an applicant's name appears on more than one application for a species, the application will be made ineligible for the drawing and no points will be accrued for that year for that species.

(d) For partnership applications that are ineligible because one of the partners has his/her name on more than one application for that species, both applicants will be made ineligible for the drawing and no points will be accrued for that year for that species.

(e) Permits will be drawn by computer selection using a weighted point selection system.

(f) Incomplete applications:

(i) To be eligible for the special deer or elk special hunting season permit drawing, each application must include a valid hunt number, complete name, correct mailing address, date of birth, a marked species check box, a valid Washington hunting license number, and a valid deer or elk transport tag number for each applicant.

(ii) To be eligible for the special mountain goat, moose, mountain sheep, or cougar special hunting season permit drawing, each application must include a valid hunt number, complete name, correct mailing address, date of birth, a marked species check box, and a valid Washington hunting license number for each applicant.

(iii) To be eligible to accrue points, each application must include either a valid Social Security number, driver's license number, or a state-issued identification number for each applicant. Applicants choosing not to submit one of the above-listed numbers will be eligible for the drawing, but will not accrue points. The same identification number must be used each year to accrue points. If a different number is used (i.e., driver's license number instead of Social Security number), point accrual will begin anew for the applicant while maintaining the point accrual under the former identification number.

(g) Inaccurate applications:

(i) If an applicant makes a mistake, applies for the wrong hunt, and is drawn, the permit can be returned to the department of fish and wildlife Olympia headquarters before the opening day of the hunt. The applicant's points will be restored to the condition they were in prior to the drawing.

(ii) If an applicant inaccurately submits his/her identification number on an application, no points will be accrued for that year for that species under the correct identification number.

AMENDATORY SECTION (Amending Order 94-136, filed 1/10/95, effective 2/10/95)

WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

GMU 300-MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; then northwest along the north shore of Lake Chelan to the Stehekin River; then northwest along the Stehekin River to the ridge between Rainbow Creek and Boulder Creek; then north on the ridge to McAlester Mountain on the Lake Chelan Wilderness Boundary; then southeast on the Wilderness Boundary along the Sawtooth Ridge separating the Chelan and Methow-

Twisp River drainages to Fox Peak and USFS Road 8020; then southeast on USFS Road 8020 to the Anatoine Creek Road (USFS Road 8140); then southeast on the Anatoine Creek Road to Apple Acres Road; then northeast on Apple Acres Road to U.S. Highway 97; then northeast on U.S. Highway 97 to Wells Dam and the Columbia River; then southwest along the Columbia River (Chelan-Douglas County line) to the Chelan River; then northwest along the Chelan River to the town of Chelan and the point of beginning. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

GMU 301-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; then southeast along the south shore of Lake Chelan to the south boundary of the Chelan National Recreation Area Boundary (south of Riddle Creek); then southwest on the Recreation Area Boundary to the Glacier Peak Wilderness Boundary; then south, west, and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; then north on the Pacific Crest Trail to North Cascades National Park; then north and east on the North Cascades National Park boundary to Hock Mountain; then south along the Lake Chelan Wilderness Boundary to McAlester Mountain; then southwest on the ridge between Rainbow Creek and Boulder Creek to the Stehekin River and the point of beginning. (See Wenatchee National Forest map and the Glacier Peak Wilderness Forest map)

GMU 302-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); then east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary and the point of beginning. (See Wenatchee National Forest map and the Alpine Lakes Wilderness map)

GMU 304-CHIWAHA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; then southeast and north on the wilderness boundary to the Entiat River; then southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); then northwest on the Mad River Road to the USFS Road 5800; then southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); then southwest on the Eagle Creek Road to State Highway 209 north of Leavenworth; then north on State Highway 209 to State Highway 207 near Lake Wenatchee; then south on State Highway 207 to U.S. Highway 2 at Coles Corner; then west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; then north on the Pacific Crest Trail to Kodak Peak and the point of beginning. (See Wenatchee National Forest map)

GMU 306-SLIDE RIDGE (Chelan County): Beginning at the Lake Chelan National Recreation Boundary on the south shore of Lake Chelan near Riddle Creek; then southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; then southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); then south on the Slide Ridge Road to Stormy Mountain and Trail 1448; then northwest on Trail 1448 to Fourmile Ridge Trail 1445; then west on the Fourmile Ridge Trail to Fox Creek; then southwest along Fox Creek to the Entiat River; then north-

west along the Entiat River to the Glacier Peak Wilderness Boundary; then north on the wilderness boundary to Lake Chelan, the Lake Chelan National Recreation Boundary and the point of beginning. (See Wenatchee National Forest map)

GMU 308-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; then southeast along Lake Chelan and the Chelan River to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River; then northwest along the Entiat River to Fox Creek; then northeast along Fox Creek to the Fourmile Ridge Trail 1445; then east on the Fourmile Ridge Trail to Trail 1448; then southeast on Trail 1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); then north on the Slide Ridge Road to Twenty-five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan and the point of beginning. (See Wenatchee National Forest map)

GMU 314-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colockum Creek; then west along Colockum Creek and the Colockum Pass Road (WDFW Road 10) to the Naneum Ridge Road (WDFW Road 9); then northwest on the Naneum Ridge Road to Wenatchee Mountain; then northwest along the ridge past Mission Peak to the Liberty-Beehive Road (USFS Road 9712); then northwest on the Liberty-Beehive Road to USFS Road 9716; then north on USFS Road 9716 to U.S. Highway 97 at Swank Pass; then northwest on the Kittitas-Chelan County line and Trail 1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning. (See Wenatchee National Forest map and Department of Fish and Wildlife Naneum Green Dot map)

GMU 316-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; then east on U.S. Highway 2 to Coles Corner and State Highway 207; then north on State Highway 207 to State Highway 209 near Lake Wenatchee; then southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); then northeast on Eagle Creek Road to French Corral and USFS Road 5800; then northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); then southeast on the Mad River Road to Ardenvoir and the Entiat River; then southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; then northwest along the Wenatchee River to Leavenworth and Icicle Creek; then south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; then north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; then north on the Pacific Crest Trail to Stevens Pass and the point of beginning. (See Wenatchee National Forest map)

GMU 328-NANEUM (Kittitas and Chelan counties): Beginning at Swauk Pass on U.S. Highway 97 and USFS Road 9716; then east on USFS Road 9716 to the Liberty-Beehive Road (USFS 9712); then east on the Liberty-

Beehive Road to the west boundary of Section 22 (T21N, R19E); then southeast along the ridge past Mission Peak to Wenatchee Mountain and Naneum Ridge Road (WDFW Road 9); then southeast on the Naneum Ridge Road to the Colockum Pass Road (WDFW Road 10); then south on the Colockum Pass Road to the East Highline Canal; then northwest along the East Highline Canal to the Lower Green Canyon Road; then south on the Lower Green Canyon Road to U.S. Highway 97; then north on U.S. Highway 97 to Swauk Pass and the point of beginning. (See Wenatchee National Forest map and Department of Fish and Wildlife Naneum Green Dot map)

GMU 329-QUILOMENE (Kittitas and Chelan counties): Beginning on the Columbia River at the mouth of Colockum Creek; then south along the Columbia River to Davies Canyon; then west along Davies Canyon to Road 14; then south and west on Road 14 to the boundary sign in the northwest quarter of Section 17 (T20N, R22E); then south to the boundary sign on Road 14 along the section lines between Sections 17, 18, 19 and 20; then east on Road 14 to Road 14.14; then east on Road 14.14 and north along the stock fence to the northern point of Cape Horn; then south along the top of the cliff and southeast to Road 14.14; then south on Roads 14.14, 14.17 and 14 to Tekison Creek; then south along Tekison Creek to the Columbia River; then south along the Columbia River to Vantage and Interstate Highway 90; then west on Interstate Highway 90 to the East Highline Canal; then north on the East Highline Canal to the Colockum Pass Road (Road 10); then north on the Colockum Pass Road to Colockum Creek; then northeast along Colockum Creek to the Columbia River and the point of beginning. (See Department of Fish and Wildlife Naneum Green Dot map)

GMU 330-WEST BAR (Kittitas County): Beginning on the Columbia River and Davies Canyon; then southeast along the Columbia River to the mouth of the Tekison Creek; then northwest along Tekison Creek to Road 14; then north on Road 14, 14.17, and 14.14 to the top of the Cape Horn Cliffs; then north along the top of the cliff to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west on Road 14.14 to Road 14 to the boundary sign between Sections 19 and 20 (T20N, R22S); then north on a line between Sections 19, 20 and 17, 18 to the boundary sign on Road 14 in the northwest quarter of Section 17; then east and north along Road 14 to Davies Canyon; then east along Davies Canyon to the Columbia River and the point of beginning. (See Department of Fish and Wildlife Naneum Green Dot map)

GMU 334-ELLENSBURG (Kittitas County): Beginning on U.S. Highway 97 and the Lower Green Canyon Road; then north on the Lower Green Canyon Road to the East Highline Canal; then east and south along the canal past Interstate 90 to the pump station; then south and west along the north branch of the canal to State Highway 821 and the Yakima River; then north along the Yakima River to the Damon Road; then south on Damon Road and Shushuskin Canyon to the South Branch Extension Canal; then west along the canal to the Bradshaw Road; then west along Bradshaw Road to the elk fence; then west and north along the elk fence to Taneum Creek; then east along Taneum

Creek to the Yakima River; then northeast along the Yakima River to the Thorp Highway; then east on the Thorp Highway and State Highway 10 to U.S. Highway 97; then north along U.S. Highway 97 to the Lower Green Canyon Road and the point of beginning. (See Wenatchee National Forest map and the Department of Fish and Wildlife map) (This is a Kittitas County Closure area for highpower rifle hunting of both deer and elk. Contact Kittitas County for more details.)

GMU 335-TEANAWAY (Kittitas County): Beginning at Snoqualmie Pass on the Pacific Crest Trail; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary; then east on the Alpine Wilderness Boundary to the Chelan-Kittitas County line; then southeast on the county line and Trail 1226 to Swauk Pass and U.S. Highway 97; then south on U.S. Highway 97 to State Highway 10; then northwest on State Highways 10, 970, 903 to Cle Elum and Interstate 90; then west on Interstate 90 to Snoqualmie Pass and the Pacific Crest Trail and the point of beginning. (See Wenatchee National Forest map)

GMU 336-TANEUM (Kittitas County): Beginning at the Pacific Crest Trail and Interstate 90 at Snoqualmie Pass; then east on Interstate 90 to Cle Elum and State Highway 903; then east on State Highways 903, 970 and 10 to the Thorp Highway; then southeast on the Thorp Highway to the Thorp Highway Bridge and the Yakima River; then southwest along the Yakima River (upstream) to Taneum Creek; then west along Taneum Creek to the South Fork Taneum Creek; then west along the South Fork Taneum Creek to Trail 1367; then west on Trail 1367 to Trail 1363; then south on Trail 1363 and south along Peaches Ridge to Trail 1388; then west on Trail 1388 to Blowout Mountain on the Pacific Crest Trail; then north on the Pacific Crest Trail to Snoqualmie Pass and the point of beginning. (See Wenatchee National Forest map)

GMU 340-MANASTASH (Kittitas County): Beginning at Quartz Mountain and Peaches Ridge (Trail 1363); then north and east on Trail 1363 to Trail 1367; then southeast on Trail 1367 to the South Fork Taneum Creek; then east along the South Fork Taneum Creek to Taneum Creek; then east along Taneum Creek to the elk fence; then southeast along the elk fence to Bradshaw Road; then east on Bradshaw Road to the South Branch Highline Canal; then southeast along the South Branch Highline Canal to the Wenas-Ellensburg Road (at Shushuskin Canyon); then north on the Wenas-Ellensburg Road to the Damon Road; then north on the Damon Road to the Yakima River; then south along the Yakima River to Umtanum Creek; then west along Umtanum Creek to the Wenas-Ellensburg Road; then west on the Wenas-Ellensburg Road to Ellensburg Pass and the Observatory Road (Section 6, T16N, R17E); then north on the Observatory Road to Manastash Ridge (Section 20, T17N, R17E, W.M.); then northwest along the Manastash Ridge to USFS Trail 694 (T17N, R15E, NW 1/4 of Section 12) near the USFS fence; then northwest on ORV Trail 694 to ORV Trail 688 near Rocky Saddle; then northwest on ORV Trail 688 to USFS Trail 1388; then northwest on Trail 1388 to Quartz Mountain and Peaches Ridge Trail and the point of beginning. (See Wenatchee National Forest map)

GMU 342-UMTANUM (Kittitas and Yakima counties): Beginning at Manastash Ridge at the junction of Forest Road

1701; then east along the Manastash Ridge to the Observatory Road in Section 20, T17N, R17E, W.M.; then south on the Observatory Road to the Wenas-Ellensburg Road near Ellensburg Pass (Section 6, T16N, R17E, W.M.); then east on the Wenas-Ellensburg Road to Umtanum Creek; then east along the Umtanum Creek to the Yakima River; then south along the Yakima River to Yakima and U.S. Highway 12; then northwest on U.S. Highway 12 to State Highway 410; then northwest on State Highway 410 to USFS Road 1701; then north on USFS Road 1701 to the point of beginning. (See Wenatchee National Forest map and Washington State Atlas & Gazetteer)

GMU 346-LITTLE NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; then east on USFS Road 1388 to USFS ORV Trail 688 to Rocky Saddle; then east on USFS ORV Trail 694 to USFS Road 1701 near the USFS fence (T17N, R15E, NW 1/4 of Section 12); then south on USFS Road 1701 to State Highway 410; then northwest and southwest on State Highway 410 to the Pacific Crest Trail near Chinook Pass; then north on the Pacific Crest Trail to Blowout Mountain and the point of beginning. (See Wenatchee National Forest map)

GMU 352-NILE (Yakima County): Beginning on the Bumping Lake Road and State Highway 410; then east and south on State Highway 410 to Nile and USFS Road 1500; then west on USFS Road 1500 to the McDaniel Lake Road (USFS Road 1502); then west on the McDaniel Lake Road to the North Fork and the South Fork of Rattlesnake Creek; then along the North Fork Rattlesnake Creek to the USFS Richmond Mine Trail 973; then north on the Richmond Mine Trail 973 to the Bumping Lake Road; then north on the Bumping Lake Road to State Highway 410 and the point of beginning. (See Wenatchee National Forest map)

GMU 356-BUMPING (Yakima County): Beginning on the Pacific Crest Trail and State Highway 410 at Chinook Pass; then northeast on State Highway 410 to the Bumping Lake Road; then southwest on the Bumping Lake Road to the USFS Richmond Mine Trail 973; then southeast on the Richmond Mine Trail 973 to the North Fork Rattlesnake Creek; then southeast along the North Fork Rattlesnake Creek to the McDaniel Lake Road (USFS Road 1502); then southeast on the McDaniel Lake Road to USFS Road 1500; then south on USFS Road 1500 to State Highway 12; then west on Highway 12 to the Pacific Crest Trail at White Pass; then north on the Pacific Crest Trail to Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.) (See Wenatchee National Forest Recreation map)

GMU 360-BETHEL (Yakima County): Beginning on USFS Road 1500 and Highway 410 at Nile; then southeast on Highway 410 to Highway 12; then southwest on Highway 12 to USFS Road 1500; then north and east on USFS Road 1500 to Nile and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 364-RIMROCK (Yakima County): Beginning on the Pacific Crest Trail and Highway 12 at White Pass; then east on Highway 12 to Windy Point and the Jump Off Road

(USFS 1302); then southwest on Jump Off Road to (~~Divide Ridge Jeep Trail 1127 at~~) Jump Off Lookout; then (~~south-east~~) south on Divide Ridge (~~Jeep Trail to DNR Road 1020 near Strobaeh Springs; then west on DNR Road 1020 to Blue Slide Lookout; then south on the jeep trail to Blue Lake; then south on the jeep trail~~) Crest to Darland Mountain and to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west on the Yakima Indian Reservation boundary to the Pacific Crest Trail; then north on the Pacific Crest Trail to Highway 12 at White Pass and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 366-RIMROCK-COWICHE (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche). (See Wenatchee National Forest Recreation map)

GMU 368-COWICHE (Yakima County): Beginning on Highway 12 and Jump Off Road near Windy Point; then northeast and southeast on Highway 12 to the Yakima River; then south along the Yakima River to the Yakima Indian Reservation boundary south of Union Gap; then west on the reservation boundary to Darland Mountain; then north on the (~~jeep trail past Blue Lake to Blue Slide Lookout; then northeast on DNR Road 1020 to Divide Ridge Trail 1127 near Strobaeh Springs; then northeast on the~~) crest of Divide Ridge ((Trail 1127)) to the Jump Off Lookout and the Jump Off Road (USFS Road 1302); then northeast on the Jump Off Road to Highway 12 and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 371 ALKALI (Kittitas and Yakima counties): Beginning one mile south of Thrall and Highway 821 at the Yakima River and the East High Canal; then east and north along the East High Canal to Interstate Highway 90; then east on Interstate Highway 90 to Vantage and the Columbia River; then south along the Columbia River to (~~Highway 24 (Vernita Bridge); then south and west along Highway 24~~) Priest Rapids Dam and the Yakima Training Center (YTC) boundary; then south and west along the YTC boundary to the main gate at Firing Center Road; then west along Firing Center Road and Harrison Road to the Yakima River; then north along the Yakima River to the East High Canal and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 372 KIONA (Benton and Yakima counties): Beginning (~~on Highway 24 and the Columbia River at the Vernita Bridge~~) at Priest Rapids Dam and the Columbia River; then east and south along the Columbia River (Yakima, Grant, Benton, and Walla Walla County line) to the Alderdale Road; then north on the Alderdale Road to the Klickitat-Yakima County line; then west on the county line to the Yakima Indian Reservation boundary; then northeast on the reservation boundary to the Mabton-Sunnyside Road; then north on the Mabton-Sunnyside Road to the Yakima River; then northwest along the Yakima River to (~~Highway 24; then east along Highway 24 to the Vernita Bridge~~) Harrison Road; then east along Harrison Road and Firing Center Road to the main gate of the Yakima Training Center (YTC); then south and east along the YTC boundary to Priest Rapids Dam and the Columbia River and the point of beginning. The Hanford Nuclear Reservation is closed to all unauthorized public entry. (See Washington Atlas & Gazetteer)

AMENDATORY SECTION (Amending Order 94-137, filed 1/10/95, effective 2/10/95)

WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

GMU 405-CHUCKANUT (Whatcom and Skagit counties): Beginning at the northwest corner of Whatcom County and the Canadian border; then east on the Canadian border to the Silver Lake Road; then south on the Silver Lake Road to the Mount Baker Highway 542; then southwest on the Mount Baker Highway 542 to the Mosquito Lake Road; then south on the Mosquito Lake Road to Valley Highway 9; then south on Valley Highway 9 through Sedro Woolley to the town of Arlington and the Stillaguamish River; then west along the Stillaguamish River through Stanwood and West Pass to Skagit Bay (Snohomish, Skagit, Island County line); then west and north through Skagit Bay, Deception Pass, Rosario Strait and Bellingham Channel to Samish Bay near Edison; then north along the shoreline to the Whatcom County line; then north on the county line to the Canadian border and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 410-ISLANDS (San Juan and Island counties): Beginning at the north corner of San Juan-Whatcom County line; then southeast on the county line to the Skagit-Whatcom County line; then east on the county line to the shore of Samish Bay; then south on the shoreline near Edison; then west through Samish Bay and south through Bellingham Channel to the Skagit-San Juan County line; then south through Rosario Strait on the San Juan-Skagit County line to the Island County line; then east on the Skagit-Island County line through Deception Pass and south through Skagit Bay; then southeast on the Island-Snohomish County line through Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; then northwest on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; then west on the San Juan-Jefferson-Clallam County lines to the Canadian border; then north on the Canadian border through Middle Bank, Haro Strait, and Boundary Pass to the north corner of San Juan-Whatcom County line and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 417-BALD MOUNTAIN (Whatcom and Skagit counties): Beginning at the intersection of the Mosquito Lake Road and the Middle Fork Nooksack River Road (Section 11, T38N, R05E); then east on the Middle Fork Nooksack River Road to Clearwater Creek; then north and east up Clearwater Creek to the end of USFS 36 Road (Section 8, T38N, R07E); then north and east on USFS 36 Road to USFS 39 Road; then north along USFS 39 Road to SR 542 Road; then east and south along SR 542 Road to its southernmost point (Section 30, T39N, R09E); then approximately 0.5 miles along a straight line to Swift Creek; then south down Swift Creek to Baker Lake; then south along the west shoreline of Baker Lake and Lake Shannon to the lower Baker Dam; then south down the Baker River to SR 20; then west along SR 20 to State Street to Burpee Hill Road; then north along Burpee Hill Road to Baker Lake Road; then west along the Baker Lake Road to SW-HO-2400 Road; then north and west along the SW-HO-2400 Road, SW-HO-2000

Road, SW-HO-2800 Road, and SW-HO-2900 Road (Josephine Truck Trail) to the intersection with the Crown Pacific 100 Road (Hamilton Mainline); then north along the Crown Pacific 100 Road (approximately .25 miles) to the intersection with Crown Pacific 110 Road; then continue west and north along the Crown Pacific 110 Road to the Crown Pacific 130 Road; then continue north and west along the Crown Pacific 130 Road to the Crown Pacific 170 Road; then continue west along the Crown Pacific 170 Road to the Crown Pacific 171 Road; then continue west along the Crown Pacific 171 Road to the Crown Pacific 172 Road; then north to the end of the Crown Pacific 172 Road (Section 10, T36N, R05E); then north to the end of the Crown Pacific 175 Road (DNR Radio Repeater); then north along a straight line to the end of John Hancock Road No. 1; then north and east along John Hancock Road No. 1 to Christie Creek((#)); then east down Christie Creek to the South Fork Nooksack River; then down the South Fork Nooksack River to the mouth of Hutchinson Creek; then north up Hutchinson Creek to the Mosquito Lake Road; then continue north along Mosquito Lake Road to the Middle Fork Nooksack Road and the point of beginning. (See Washington Atlas & Gazetteer) ((#Map of this portion of GMU 417 available upon request at the Mill Creek regional office.))

GMU 418-NOOKSACK (Whatcom and Skagit counties): Beginning at the Silver Lake Road and the Canadian border; then east on the Canadian border to the North Cascades National Park Boundary; then south on the North Cascades National Park Boundary to the range line between Range 9 and 10 East; then south on this range line to Jackman Creek; then south along Jackman Creek to the Skagit River; then west along the main channel of the Skagit River to Highway 9; then north along Highway 9 to its intersection with Highway 20 (West Sedro Woolley); then east along Highway 20 to its intersection with Valley Highway 9 (East Sedro Woolley); then north along Valley Highway 9 to Mosquito Lake Road; then north on the Mosquito Lake Road to Mount Baker Highway 542; then north on Mount Baker Highway 542 to the Silver Lake Road; then north on the Silver Lake Road and the Canadian border to the point of beginning except GMU 417 (Bald Mountain) which is within GMU 418 (Nooksack). (See Washington Atlas & Gazetteer)

GMU 426-DIABLO (Skagit and Whatcom counties): Beginning at the Canadian border and the west boundary of the Ross Lake National Recreation Area; then south, on the Ross Lake National Recreation Boundary across the Skagit River and the North Cascades Highway; then north on the Ross Lake National Recreation Boundary to two miles east of Panther Creek; then south on the North Cascades National Park Boundary to Fisher Point; then east on the Skagit-Chelan County line across State Highway 2 to the Pacific Crest Trail; then north on the Pacific Crest Trail to Jims Pass, Oregon Basin and the Mt. Baker-Snoqualmie National Forest; then west on the Mt. Baker-Snoqualmie National Forest Boundary to the Ross Lake National Recreation Boundary; then north on the east boundary of the Ross Lake National Recreation Area to the Canadian border; then west on the Canadian border to the west boundary of the Ross Lake National Recreation Area and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 433-CAVANAUGH (Skagit and Snohomish counties): Beginning at the intersection of State Highway 9 and the Skagit River (south of Sedro Woolley); then east along the main channel of the Skagit River to the Sauk Valley Road (SR 530) near Rockport; then south on the Sauk Valley Road (SR 530) to Darrington; then west on the Arlington-Darrington Highway (SR 530) to State Highway 9 (at Arlington); then north on State Highway 9 to the Skagit River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 440-SUIATTLE (Skagit and Snohomish counties): Beginning at State Highway 20 and Jackman Creek east of Concrete; then northeast along Jackman Creek to the range line between Range 9 and 10 East; then north on the range line to the boundary of the North Cascades National Park; then north and east on the North Cascades National Park Boundary to the Ross Lake National Recreation Area Boundary; then south on the Ross Lake National Recreation Area Boundary across the North Cascade Highway 20 and the Skagit River and east along the Ross Lake National Recreation Area to the North Cascades National Park Boundary near Big Devil Peak; then southeast on the North Cascades National Park Boundary to the Cascade River Road; then south on the Cascade River Road to USFS Road 1590 (USFS Road 1590); then south on USFS Road 1590 to the north boundary of Glacier Peak Wilderness Area; then west and south on Glacier Peak Wilderness Area Boundary to the Suiattle River; then west along the Suiattle River to State Highway 530 (Sauk Valley Road); then north on State Highway 530 to Rockport and State Highway 20; then west on State Highway 20 to Jackman Creek and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 442-TULALIP (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River near Stanwood; then east along the Stillaguamish River to Arlington and State Highway 530; then northeast on State Highway 530 to the Trafton School at Trafton; then southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; then southwest on the transmission line to the Jordan Road in Section 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls and the Menzel Lake Road; then south on the Menzel Lake Road past Lake Roesiger to the Woods Creek Road; then south on the Woods Creek Road to Monroe and Highway 203; then south on Highway 203 to the Snoqualmie River at Duvall; then north along the Snoqualmie River to the Snohomish River; then west along the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River near Stanwood and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties): Beginning at Trafton on the Highway 530 (Arlington-Darrington Highway); then northeast on Highway 530 to Darrington; then north on Highway 530 (Sauk Valley Road - Bennets Store Road) to the Suiattle River; then east along the Suiattle River to the Glacier Peak Wilderness Area Boundary; then south on the Glacier Peak Wilderness Area Boundary to June Mountain and USFS Trail 650; then west on the USFS Trail 650 on the crest between Sloan Creek and

the North Fork Skykomish River Drainages to Curry Gap and the Quartz Creek Trail 1050; then south on the Quartz Creek Trail 1050 and 1054 to West Cady Creek; then south along West Cady Creek through Section 36, T28N, R12E to Meadow Creek; then south along Meadow Creek to Rapid River; then east along Rapid River to Lake Janus and the Pacific Crest Trail; then south on the Pacific Crest Trail to Stevens Pass and Highway 2; then west on Highway 2 to Monroe and the Woods Creek Road; then north on the Woods Creek Road past Lake Roesiger to the Menzel Lake Road; then north on the Menzel Lake Road to Granite Falls and the Jordan Road; then northwest on the Jordan Road through Jordan to the City of Seattle power transmission lines; then northeast on the transmission lines to the Jim Creek-Trafton Road (242nd St. N.E.); then west on the Jim Creek-Trafton Road to Trafton and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 450-CASCADE (Skagit and Snohomish counties): Beginning on the Glacier Peak Wilderness Boundary one mile north of Jordan Lakes on the township line between T34 & 35N; then east on the Wilderness Boundary to USFS Road 1590 (USFS Road 1590); then north on USFS Road 1590 to the Cascade River Road; then north on Cascade River Road to the North Cascades National Park Boundary; then east on the North Cascades National Park Boundary to the Pacific Crest Trail Boundary; then south on the Pacific Crest Trail to Lake Janus and the Rapid River; then northwest along the Rapid River to Meadow Creek; then north along Meadow Creek to West Cady Creek; then northwest along West Cady Creek near Excelsior Mountain and USFS Trail 1054; then north on USFS Trail 1054 and the Quartz Creek Trail (USFS 1050) to Curry Gap and USFS Trail 650; then east on USFS Trail 650 to June Mountain and the Glacier Peak Wilderness Boundary; then north on the Glacier Peak Wilderness Boundary across the Suiattle River to Jordan Lakes on township line between T34 & 35N and the point of beginning. (See Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest maps)

GMU 454-ISSAQUAH (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; then southeast along the Snohomish River to the Snoqualmie River; then southeast along the Snoqualmie River to Duvall and State Highway 203; then south on State Highway 203 through Fall City to Preston and Interstate Highway 90; then east on Interstate Highway 90 to State Highway 18; then south on State Highway 18 to the Raging River; then southeast along the Raging River to the City of Seattle Cedar River Watershed; then west, south and east on the Cedar River Watershed to the City of Tacoma Green River Watershed; then south on the Green River Watershed to USFS Road 7110 near Lynn Lake; then southwest on USFS Road 7110 to U.S. Highway 410; then west on U.S. Highway 410 to Enumclaw and State Highway 164; then west on State Highway 164 to Auburn and State Highway 18; then west on State Highway 18 to U.S. Highway 99; then north on U.S. Highway 99 to Redondo Beach; then due west to Puget Sound; then north along Puget Sound to the mouth of the Snohomish River and the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker-Snoqualmie National Forest map)

GMU 460-SNOQUALMIE (King and Snohomish counties): Beginning at Monroe on State Highway 203 and U.S. Highway 2; then east on U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; then south on the Pacific Crest Trail to the City of Seattle Cedar River Watershed; then west on the Cedar River Watershed to the Raging River; then north along the Raging River to State Highway 18; then north on State Highway 18 to Interstate Highway 90; then west on Interstate Highway 90 to the Preston-Fall City Road; then north on the Preston-Fall City Road to State Highway 203; then north on State Highway 203 to Monroe and the point of beginning. (See Mt. Baker-Snoqualmie National Forest map)

GMU 466-STAMPEDE (King County): Beginning on the Pacific Crest Trail (USFS Trail 2000) and the east boundary of the City of Seattle Cedar River Watershed; then south on the Pacific Crest Trail past Blowout Mountain to Pyramid Peak, at Windy Gap; then northwest on USFS Roads 7036 and 7030 to USFS Trail 1172; then northwest on USFS Trail 1172 to the Champion Creek Road (USFS Road 7012); north on Champion Creek Road to the City of Tacoma Green River Watershed Boundary; then north on the Green River Watershed Boundary to the Pacific Crest Trail and the point of beginning. (See White River Ranger District map and North Bend Ranger District map of the Mt. Baker-Snoqualmie National Forest)

GMU 472-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (USFS Road 7110) and the City of Tacoma Green River Watershed Boundary; then east on the Green River Watershed Boundary and USFS Trail 1172 to USFS Road 7032; then east along USFS Road 7032 to USFS Road 7030; then southeast along USFS Road 7030 and USFS Road 7036 to the Pacific Crest Trail north of Pyramid Peak; then south on the Pacific Crest Trail to the Mount Rainier National Park Boundary at Chinook Pass; then north and west on the park boundary to the Carbon River; then northwest along the Carbon River to Bonneville Power Transmission Line; then northeast along the transmission line to South Prairie Creek; then north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); then east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); then southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; then northeast on the transmission lines to State Highway 410; then east on State Highway 410 to USFS Road 7110; then north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, U.S. Forest Service White River-Norse Peak Wilderness map, and Champion Timberlands Visitors Recreation map)

GMU 478-MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River bridge on the Orville Road East; then northeast on the Bonneville Power Transmission Line to the ~~((Fisk Road)) Carbon River~~; then southeast ~~((on the Fisk Road to Champion's 12 Road; then northeast on Champion's 12 Road to the Carbonado Electron powerline; then northeast on~~

~~the powerline to the Carbon River; then southeast))~~ along the Carbon River to the west boundary of Mt. Rainier National Park; then south on the park boundary to the Nisqually River; then west on the Nisqually River (Pierce-Lewis County line) to Weyerhaeuser 1000 (Main Line); then northeast on the Weyerhaeuser 1000 to Highway 161 (Eatonville-LaGrande Road); then northeast on Highway 161 through Eatonville to Orville Road East (Kapowsin-Eatonville Road); then north on the Orville Road East to the Puyallup River bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

GMU 480-SOUTH ISLANDS (Pierce County): All of Anderson, Ketron, McNeil, Gertrude, and Pitt Islands. "Special firearm restrictions for these islands." Hunting is closed on Gertrude, Pitt and McNeil Islands. (See Washington Atlas & Gazetteer)

GMU 484-PUYALLUP (Pierce and King counties): Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; then southeast on Redondo Way South to Pacific Highway South (Old Highway 99); then south on the Pacific Highway South to Auburn and State Highway 18; then east on State Highway 18 to State Highway 164; then southeast on State Highway 164 to Enumclaw and State Highway 410 (Chinook Pass Highway); then east on State Highway 410 to the second set of Bonneville Power Transmission Lines near the Mud Mountain Dam Road; then southwest on the transmission lines to the White River; then northwest along the White River to the Champion ownership line (along west line of Section 6, T19N, R7E); then west and south along the Champion ownership line to South Prairie Creek (Section 14, T19N, R6E); then south along South Prairie Creek to the intersection with the Bonneville Power Line; then southwest on this transmission line to ~~((the Carbon River; then southeast on the Carbon River to the Carbonado/ Electron powerline; then southwest on the powerline to the Champion 12 Road; then southwest on the Champion Road to Fisk Road; then northwest on the Fisk Road to the Bonneville Power Transmission Line; then southwest on this transmission line to the))~~ Puyallup River ~~((bridge))~~ and the Orville Road East; then south on the Orville Road East to State Highway 161; then south on the Weyerhaeuser 1000 line to the Nisqually River (Pierce-Thurston County line); then northwest along the Nisqually River to Puget Sound; then north along the shore of Puget Sound to Redondo and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

GMU 485-GREEN RIVER (King County): Beginning at the northwest corner of the Green River Watershed; then east on the boundary between the Green River Watershed and the Cedar River Watershed to the USFS Road 5060; then south on the USFS Road 5060 to the posted boundary of the Green River Watershed; then along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain and across the Green River to the northwest

corner of the Green River Watershed and the point of beginning. (See White River Ranger District map, and North Bend Ranger District map of the Mt. Baker-Snoqualmie National Forest)

GMU 490-CEDAR RIVER (King County): Beginning at the Cedar River and the west boundary of the City of Seattle Cedar River Watershed; then north and east on the watershed boundary to the Pacific Crest Trail; then south on the Pacific Crest Trail past Yakima Pass to the boundary of the Cedar River Watershed; then west and north on the Cedar River Watershed Boundary to the Cedar River and the point of beginning. (See Mt. Baker-Snoqualmie National Forest map)

AMENDATORY SECTION (Amending Order 94-138, filed 1/10/95, effective 2/10/95)

WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

GMU 501-LINCOLN (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6; then west on State Highway 6 to the Stevens Road; then northwest on Stevens Road to Elk Creek Road (Doty); then west on Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road; then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12; then east on U.S. Highway 12 to Interstate 5; then south on Interstate 5 to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 504-STELLA (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River; then west down the Columbia to the mouth of Germany Creek; then north up Germany Creek to State Highway 4; then east on Highway 4 to Germany Creek Road; then north on Germany Creek Road to International Paper 1000 Road; then north on International Paper 1000 to the International Paper 1050 Road; then east on International Paper 1050 Road to the 2200 Road; then east and south to the 2000 Road; then south on the 2000 Road to the Delameter Road (Woodside Road); then east on Delameter Road to State Highway 411; then north on Highway 411 to PH 10 Road (Four Corners); then east to Cowlitz River; then south down the Cowlitz River to the Columbia River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 505-MOSSYROCK (Lewis County): Beginning on Interstate 5 and the Cowlitz River; then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge; then east on U.S. Highway 12 to Winston Creek Road; then south and east to Longbell Road and Perkins Road; then northeast on Perkins Road to Swofford Road; then north on Swofford Road to Ajlune Road; then east on Ajlune Road to Riffe Lake; then east along the south shore to the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge; then south and east to the C Line Road; then east to the Bennet Road; then east to U.S. Highway 12; then west on Highway 12 to State Highway 7 (Morton); then north on State Highway 7 to State Highway 508; then west on Highway 508 to Centralia/Alpha Road;

then west and north on Centralia/Alpha Road to Salzer Valley Road; then west to Summa Street and Kresky Road; then north on Kresky Road to Tower Street; then on Tower Street to State Highway 507; then west on Highway 507 Cherry, Alder and Mellen Streets to Interstate 5; then south on Interstate 5 to the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties): Beginning at Pe Ell and the Muller Road; then south on the Muller Road to the 1000 Road; then south on the 1000 Road to the 1800 Road; then south on the 1800 Road to the 500 Road; then southeast on the 500 Road to State Highway 407 (Elochoman Valley Road); then south on the Elochoman Valley Road (old SR 407) to the Elochoman River; then downstream along the Elochoman River to the Foster Road; then north on Foster Road to Risk Road; then west and north along Risk Road to SR 4; then west on SR 4 to Skamokawa Creek; then downstream along Skamokawa Creek to the confluence with the Columbia River; then west along Columbia River to the mouth of the Deep River; then north along the Deep River to State Highway 4; then northwest on State Highway 4 to the Salmon Creek Road; then north on the Salmon Creek Road to the Bonneville Powerline Road; then north on the Bonneville Powerline Road to State Highway 6; then east on State Highway 6 to the Town of Pe Ell and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "Willapa Hills")

GMU 510-STORMKING (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then northwest on the USFS 85 Road to Catt Creek; then north on Catt Creek to the Nisqually River; then west down the Nisqually River to State Highway 7; then south on Highway 7 to U.S. Highway 12 (Morton); then east on U.S. Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map)

GMU 512-SAWTOOTH (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then north on USFS 85 Road to Catt Creek; then northwest down Catt Creek to the Nisqually River; then east up the Nisqually River to Horse Creek; then east up Horse Creek to USFS 52 Road (Skate Creek Road); then southeast on USFS 52 Road to the Cowlitz River; then southwest down the Cowlitz River to Smith Creek; then up Smith Creek to U.S. Highway 12; then west on U.S. Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map and/or Washington Atlas & Gazetteer)

GMU 514-TATOOSH (Lewis County): Beginning at USFS 52 Road (Skate Creek) and the Cowlitz River (at Packwood); then northwest on USFS 52 Road to Horse

Creek; then down Horse Creek to the Nisqually River and the southern boundary of Mt. Rainier National Park; then north and east along the Nisqually River and south park boundary to the ((~~Cascade~~)) Pacific Crest Trail; then south along the ((~~Cascade~~)) Pacific Crest Trail to U.S. Highway 12; then northwest and southwest on U.S. Highway 12 to USFS 1270 Road; then north on USFS 1270 Road to the Cowlitz River; then southwest down the Cowlitz River to the USFS 52 Road and point of beginning. (See Gifford Pinchot National Forest map)

GMU 516-PACKWOOD (Lewis and Skamania counties): Beginning at the mouth of Cispus River; then east up the Cispus River to the USFS 56 Road (Midway G.S. Road); then east on the USFS 56 Road to the USFS 5603 Road; then east on the USFS 5603 Road to the Yakima Indian Reservation Boundary and the Cascade Crest; then north along the reservation boundary to Cispus Pass and the ((~~Cascade~~)) Pacific Crest Trail; then north along the ((~~Cascade~~)) Pacific Crest Trail to the U.S. Highway 12 (White Pass); then northwest and southwest on U.S. Highway 12 to USFS 1270 Road (Section 31, T14N, R10E); then north on USFS 1270 Road to the Cowlitz River; then southwest down the Cowlitz River to the mouth of Smith Creek; then south up Smith Creek to U.S. Highway 12; then southwest down U.S. Highway 12 to Bennet Road; then west on the Bennet Road to the C Line Road; then west to the USFS 23 Road (Cispus Road); then west and north to the Cowlitz River; then west down the Cowlitz River to the mouth of the Cispus River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River; then south down the Cowlitz River to the Toutle River; then east up the Toutle River to the North Fork Toutle River; then up the North Fork Toutle River to the Green River; then east up the Green River to USFS 2612 Road; then east on USFS 2612 Road to USFS 26 Road (Ryan Lake Road); then north on USFS 26 Road to the Cispus River; then west down the Cispus to the Cowlitz River; then west down the Cowlitz River to Riffe Lake; then west along the south shore to Ajlune Road; then west to Swofford Road; then south on Swofford Road to Perkins Road; then southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road; then northwest on Winston Creek Road to U.S. Highway 12; then west on U.S. Highway 12 to the Mayfield Lake bridge; then southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 522-LOO-WIT (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; then southeast up the North Fork Toutle River to the Weyerhaeuser 3001 Road; then southeast along the 3001, 3000, and 3090 Roads to the headwaters of the South Fork Castle Creek; then due south to the South Fork Toutle River; then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon; then down Ape Canyon Creek to the USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then north along USFS 99 Road to USFS 26 Road; then

north to Strawberry Lake Creek; then west down Strawberry Lake Creek to the Green River; then across the Green River to Grizzly Creek; then up Grizzly Creek to Grizzly Lake; then west up the western inlet to its headwaters; then west to the headwaters of Coldwater Creek; then west down Coldwater Creek to Coldwater Lake; then southwest along the northwest shore to the old Weyerhaeuser 3500 Road; then west along the 3500, 3530, 3540, 3130, and 3120 Roads to the intersection with Hoffstadt Creek; then down Hoffstadt Creek to the North Fork Toutle River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River; then southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek; then up Hoffstadt Creek to the 3120 Road; then east along the 3120, 3130, 3540, 3530 and 3500 Roads to Coldwater Lake; then northeast along the northwest shoreline to Coldwater Creek; then up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake; then east down the west inlet creek to Grizzly Lake; then down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek; then up Strawberry Lake Creek to the USFS 26 Road (Ryan Lake Road); then north on the USFS 26 Road to the USFS 2612 Road; then west on USFS 2612 Road to the Green River; then down the Green River to its mouth and point of beginning. (See Gifford Pinchot National Forest map)

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties): Beginning south of the Town of Doty on State Highway 6; then east on State Highway 6 to Chehalis and Interstate 5; then south on Interstate 5 to the Cowlitz River; then south along the Cowlitz River to Castle Rock and the PH 10 Road (Four Corners); then west on the PH 10 Road to State Highway 411; then south on State Highway 411 to Delameter Road (Woodside Drive); then southwest on Delameter Road to the 2000 Road; then west on the 2000 Road to the 2200 Road; then north and west on the 2200 Road to the International Paper 1050 Road; then west on the International Paper 1050 Road to the International Paper 1000 Road; then south on the International Paper 1000 Road to the Germany Creek Road; then south on the Germany Creek Road to State Highway 4; then west on State Highway 4 to Germany Creek; then south along Germany Creek to its mouth at the Columbia River; then west along the Columbia River and the Cathlamet Channel to the Puget Island Bridge on State Highway 409; then north on State Highway 409 to State Highway 4; then west on State Highway 4 to State Highway 407 (Elochoman Valley Road); then northwest on State Highway 407 (Elochoman Valley Road) to the 500 Road; then west on the 500 Road to the 1800 Road; then north on the 1800 Road to the International Paper 1000 Road; then north on the International Paper 1000 Road to the Muller Road; then north on Muller Road to Pe Ell and State Highway 6; then north on State Highway 6 to south of Doty and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "Willapa Hills")

GMU 550-COWEEMAN (Cowlitz County): Beginning at the mouth of the Cowlitz River; then north to the Toutle River; then east along the Toutle River to the South Fork

Toutle River; then up the South Fork Toutle to the 4950 Road; then south and east on the 4950 Road to the 235 Road; then south on the 235, 200, 245, 134, 133, 130 and 1680 Roads to the 1600 Road; then southeast along the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south along the 1420 Road to the 1425 Road; then southwest along the 1425 Road to the 6400 Road; then southwest down the 6400 Road to the 6000 Road; then east to the 6450 Road; then southeast approximately one mile on the 6450 Road to the Arnold Creek Road; then southeast on Arnold Creek Road to Dubois Road; then to State Highway 503; then west on State Highway 503 to Cape Horn Creek; then down Cape Horn Creek to Merwin Reservoir and the Lewis River; then down the Lewis River to the Columbia River; then down the Columbia River to the mouth of the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 554-YALE (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek; then east on State Highway 503 to 6690 Road (Rock Creek Road); then northeast on the 6690 and 6696 Roads to West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on State Highway 503 to Dog Creek; then down Dog Creek to Yale Reservoir; then south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek; then up Cape Horn Creek to State Highway 503 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 556-TOUTLE (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road (Merril Lake Road) intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; then east and north on the 5500 and 5670 Roads to the South Fork Toutle River; then east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Section 1, T8N, R4E); then north to the headwaters of South Fork Castle Creek; then down South Fork Castle Creek to Weyerhaeuser 3092 Road; then west on the 3092 Road to 3090 Road; then northwest on the 3090, 3000 and 3001 Roads to the North Fork Toutle River; then down the North Fork Toutle River to the South Fork Toutle River; then southeast up the South Fork Toutle River to the 4950 Road; then south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 Roads to the 1600 Road; then southeast on the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south on the 1420 Road to the 1425 Road; then southwest along the 1425 Road to the 6400 Road; then southwest on the 6400 Road to the 6000 Road; then east up the 6000 Road to the 6450 Road; then southwest on the 6450 Road approximately one mile to the Arnold Creek Road; then southeast on Arnold Creek and Dubois Roads to State Highway 503; then east on State Highway 503 to the 6690 Road (Rock Creek Road); then northeast on the 6690 and 6696 Roads to the West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on State Highway 503 to USFS 81 Road and point of beginning. (See Washington Atlas & Gazetteer)

GMU 558-MARBLE (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and

USFS 81 Road intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; then east and north on the 5500 and 5670 Roads to the South Fork Toutle River; then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon; then east down Ape Canyon Creek to USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then northeast on USFS 99 Road to USFS 25 Road; then south on USFS 25 Road to the Muddy River; then south down the Muddy River to the North Fork Lewis River; then west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek; then north up Dog Creek to State Highway 503; then southwest to USFS 81 Road and point of beginning. (See Gifford Pinchot National Forest map)

GMU 560-LEWIS RIVER (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Road; then north to USFS 17 Road (Mt. Adams Recreational Road); then northeast to USFS 82 Road; then northeast on the USFS 82 Road to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then north along reservation boundary (Cascade Crest) to USFS 5603 Road; then west to the USFS 56 Road; then west to the Cispus River; then northwest down the Cispus River to the USFS 26 Road (Ryan Lake Road); then west and south on the USFS 26 Road to USFS 99 Road; then northeast to the USFS 25 Road; then south to Muddy River; then south down the Muddy River to the North Fork Lewis River; then west to the USFS 90 Road bridge (Eagle Cliff); then east on USFS 90 Road to USFS 51 Road; then southeast to USFS 30 Road; then northeast on the USFS 30 Road to USFS 24 Road; then southeast to the State Highway 141; then northeast on State Highway 141 to Trout Lake and point of beginning. (See Gifford Pinchot National Forest map)

GMU 564-BATTLE GROUND (Clark and Skamania counties): Beginning on the Interstate 5 at the Lewis River Bridge and the Lewis River; then northeast along the Lewis River (Cowlitz-Clark County line) to the Merwin Dam; then on a southeast line to the transmission line; then south on the transmission line to ~~((the County Road 20; then southeast on County Road 20 to the Pup Creek Road; then southeast on Pup Creek Road to County Road 16; then southeast on County Road 16 through Yacolt to County Road 12; then southeast on County Road 12))~~ N.E. Grinnel Road; N.E. Grinnel Road to N.E. Pup Creek Road; N.E. Pup Creek Road to N.E. Cedar Creek Road through Amboy and Yacolt to Railroad Avenue; southeast to Sunset Falls Road; east to Dole Valley Road; then south on the Dole Valley Road to Rock Creek Road; then southeast and south on the DNR 1000 Road to DNR 1500 Road; then east on DNR 1500 Road to N.E. 412th Avenue; then south on N.E. 412th Avenue to Skye Road; then east and south on the Skye Road to Washougal River Road; then south on Washougal River Road to State Highway 140; then southeast on State Highway 140 to Cape Horn Road; then south on Cape Horn Road to the Columbia River; then west down the Columbia River (including islands in Washington) to the Lewis River; then north along the Lewis River to the Interstate 5 Bridge and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "St. Helens West")

GMU 568-WASHOUGAL (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River and Lake Merwin; then northeast along Lake Merwin (Cowlitz-Clark County line) to Canyon Creek; then southeast along Canyon Creek to N.E. Healy Road; then east on N.E. Healy Road to USFS Road 54; then east on USFS Road 54 to USFS Road 37; then northwest on USFS Road 37 to USFS Road 53; then south on USFS Road 53 to USFS Road 4205 (Gumboat Road); then south on USFS Road 4205 to USFS Road 42 (Green Fork Road); then southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; then east on USFS Road 41 to USFS Road 406 at Lookout Mountain; then southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; then due east on the National Forest Boundary to Rock Creek; then southeast along Rock Creek to Stevenson and the Columbia River; then west down the Columbia River (including the islands in Washington) to the Cape Horn Road; then north on the Cape Horn Road to State Highway 140; then west on State Highway 140 to the Washougal River Road; then northwest on the Washougal River Road to the Skye Road; then northwest on the Skye Road to N.E. 412th Avenue; then northwest on DNR 1500 Road to DNR 1000 Road; then north and west on DNR 1000 Road to Dole Valley Road; then north on the Dole Valley Road to ~~((County Road 12; then northwest on County Road 12 to Moulton and County Road 16; then northwest on County Road 16 through Yacolt and Amboy to the Pup Creek Road; then northwest on the Pup Creek Road to County Road 20; then north on County Road 20))~~ Sunset Falls Road; then northwest to Railroad Avenue through Yacolt; then northwest on N.E. Cedar Creek Road through Amboy to N.E. Pup Creek Road; Pup Creek Road to N.E. Grinnel Road to the transmission lines; then north on the transmission lines to Merwin Dam on the Lewis River and the point of beginning. (See Gifford Pinchot National Forest map and Washington Atlas & Gazetteer)

GMU 572-SIOUXON (Skamania and Clark counties): Beginning at the Yale Dam and Yale Lake; then north along Yale Lake (Cowlitz-Clark County line) to the North Fork Lewis River and Lewis River (old river bed); then northeast along the Lewis River to the Swift Creek Reservoir; then east along the Swift Creek Reservoir to Eagle Cliff Bridge and USFS Road 90; then east on USFS Road 90 to USFS 51 Road (Curly Creek Road); then southeast on USFS Road 51 to USFS Road 30; then north on USFS Road 30 to USFS Road 24 (Twin Butte Road); then south on USFS Road 24 to USFS Road 60 (Carson Guler Road); then southwest on USFS Road 60 to USFS Road 65 (Panther Creek Road); then southwest on USFS Road 65 to the Wind River Highway; then northwest on the Wind River Highway to Stabler; then west on Hemlock Road to USFS Road 41 (Sunset-Hemlock Road); then west on the USFS Road 41 to Sunset Falls and USFS Road 42 (Green Fork Road); then northeast on USFS Road 42 to USFS Road 4205 (Gunboat Road); then north on USFS Road 4205 to USFS Road 53; then northwest on USFS Road 53 to USFS Road 54 (N.E. Healy Road); then west on USFS Road 54 to Canyon Creek; then north along Canyon Creek to the Lewis River; then northeast along the Lewis River to the Yale Dam and the point of beginning. (See Gifford Pinchot National Forest map, and Forest Protection map "St. Helens West")

GMU 574-WIND RIVER (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); then east on USFS Road 41 to Stabler; then east on the Hemlock Road to the Wind River Road; then southeast on the Wind River Road to Old State Road; then east on Old State Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to ((Old State Road)) USFS Road 60; then ((east to the USFS Road 60 (Carson Guler Road); then)) northeast on USFS Road 60 to ((USFS Road 24 and)) State Highway 141; continue east on State Highway 141 to USFS Road 86; then south on USFS Road 86 to USFS Road 1840; then south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); then south on USFS Road 18 to Willard and the Little White Salmon River; then south on the Little White Salmon River to the Columbia River; then west along the Columbia River to the mouth of Rock Creek; then northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; then on the south boundary of Gifford Pinchot National Forest due west to USFS Road 4100-406; then northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning. (See Washington Atlas & Gazetteer, Gifford Pinchot National Forest map)

GMU 576-WHITE SALMON (Klickitat, Yakima and Skamania counties): Beginning at the mouth of the Klickitat River (Lyle) to the Fisher Hill Bridge; then north along the Fisher Hill Road (P-2000) to the Gravel Pit Road; then west to the B-Z Corners-Glenwood Road; then southwest to State Highway 141 (B-Z Corners); then north to Trout Lake; then west on State Highway 141 to USFS 86 Road; then south to the USFS 1840 Road; then south on the USFS 1840 Road to the USFS 18 Road (Oklahoma Road); then south on the USFS 18 Road to Willard and the Little White Salmon River; then south down the Little White Salmon River to the Columbia River; then east up the Columbia River to the Klickitat River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 580-SIXPRONG (Klickitat and Yakima counties): Beginning on State Highway 14 at Sundale; then east to the Goldendale-Goodnoe Hills Road; then northwest along Goldendale-Goodnoe Hills Road to Dot Road; then north along the Dot Road to Cleveland; then along the Goldendale-Bickleton Road to the Yakima County line; then east along the Yakima County line to Alderdale Road; then southeast along the Alderdale Road to State Highway 14 and Columbia River; then west along the state line to Sundale and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 584-GOODNOE (Klickitat County): Beginning at the U.S. Highway 97 bridge on the Columbia River (Maryhill); then north on U.S. Highway 97 to Satus Pass and the Yakima Indian Reservation; then east along south reservation boundary to the Yakima County line; then east to Goldendale/Bickleton Road; then southwest to Cleveland and Dot Road; then south to Goldendale/Goodnoe Hills Road; then southeast to State Highway 14; then west to Sundale and mouth of Chapman Creek; then west down the Columbia River to U.S. Highway 97 bridge and point of beginning. (See Washington Atlas & Gazetteer)

GMU 586-GLENWOOD (Klickitat County): Beginning at B-Z Corners and State Highway 141; then north on State

Highway 141 to Trout Lake and the USFS 80 Road; then north to the USFS 17 Road; then northeast to USFS 82 Road; then northeast on USFS 82 Road, to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then south along the reservation boundary to King Mountain and the southwest corner of the reservation (Section 27, T7N, R11E); then east along boundary (approximately one mile) to the end of King Mountain Road; then north to the northern boundary of the reservation at Section 2, T7N, R11E; then east to the northeastern corner of Section 4, T7N, R12E; then southeast along boundary to Summit Creek Primary Road; then south to the Glenwood/Goldendale Road; then northwest on the Glenwood/Goldendale Road to the Gravel Pit Road; then south on the Lakeside Road to the B-Z Corners/Glenwood Road; then southwest to B-Z Corners and point of beginning. (See Washington Atlas & Gazetteer and DNR Mt. Adams Quadrangle map)

GMU 588-GRAYBACK (Klickitat County): Beginning at U.S. Highway 97 bridge across Columbia River (Maryhill); then west down the Columbia River to Lyle and the mouth of the Klickitat River; then up the Klickitat River to the Fisher Hill Bridge; then north along the Fisher Hill Road (P-2000) to the Lakeside Road; then north on the Lakeside Road to the Gravel Pit Road; then northwest to the Glenwood/Goldendale Road; then east and southeast on the Glenwood/Goldendale Road to the Summit Creek Primary Road; then northeast to the Yakima Indian Reservation Boundary; then east along the southern boundary of the reservation to U.S. Highway 97 (Satus Pass Highway); then south on U.S. Highway 97 to Maryhill and point of beginning. (See Washington Atlas & Gazetteer)

AMENDATORY SECTION (Amending Order 94-140, filed 1/10/95, effective 2/10/95)

WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—Deer area descriptions.

Deer Area No. 001 Champion North (Pierce County): Beginning at the point where the Bonneville Power Transmission Line crosses the Carbon River (about 14 miles northwest of Carbonado); then south and west up the Carbon River to where it intersects State Highway 165; then south and east along State Highway 165 to where it intersects the Mt. Rainier National Park Boundary; then south along said boundary to where it intersects the North Fork Puyallup River; then north and west down the North Fork Puyallup River and the Puyallup River to where it intersects the Bonneville Power Transmission Line (about three miles south of Orting); then north and east along said power transmission line to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 002 Champion South (Pierce County): Beginning at the point where Champion's 1 Road crosses the Puyallup River (approximately 1 1/2 miles northeast of Kapowsin) then southeast up the Puyallup River to the confluence with Deer Creek; then south up Deer Creek to where it intersects the 243 Road; then northwest along the 243 Road to where it intersects the 24 Road; then southwest along the 24 Road to where it intersects the 3270 Road; then west along the 3270 Road to where it intersects the 327

Road; then southwest along the 327 Road to where it crosses Busy Wild Creek (near Lake Lorraine); then west down the Busy Wild Creek to its confluence with the North Fork Mashel River; then up the North Fork Mashel River (about 1 mile) to the point nearest the southernmost extension of the 311 Road (T16N, R6E, Section 19, S.W. 1/2 of S.W. 1/2); then in a line to the 311 Road; then along 311 Road to where it intersects the 3113 Road; then north along the 3113 Road to where it intersects the 843 Road; then along the 843 Road to where it intersects the 84 Road; then along the 84 Road to where it intersects the 8 Road; then north along the 8 Road to where it intersects the 82 Road; then along the 82 Road to where it intersects the township line between Townships 16 & 17 North, W.M.; then west on said line to where it intersects the range line between Ranges 4 & 5 East, W.M.; then north on said line to northwest corner of Section 31, T17N, R5E; then east on section line between Sections 30 and 31, T17N, R5E to 1/4 corner (Champion ownership); then north from said corner along ownership line to the point closest to the southernmost extension of the 0-100 Road (approx. 3/4 mile); then in a northwest line to the 0-100 Road; then along the 0-100 Road to where it intersects with Ohop Creek; then northwest along Ohop Creek to where it empties into Lake Kapowsin; then northeast along the east shore of Lake Kapowsin to the point closest to the start of the 1 Road; then along the 1 Road to point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 010 Pyramid (Chelan County): That part of GMUs 306 and 304 beginning at the Glacier Peaks Wilderness and Lake Chelan; then south along Lake Chelan to Corral Creek Campground; then west to the intersection of Trail 1433 and Butte Trail 1440; then northwest along Butte Trail 1440 to South Pyramid Trail 1439; then southwest to intersection of Trail 1437; then due west to Trail 1434; then northwest to Trail 1435; then south to Trail 1400; then southeast to Garland Creek; then west to Garland Peak; then north along Trail 1408 to Trail 1515; then south to Trail 1530; then west to Trail 1509; then south to Trail 1527; then north to Estes Butte and continuing along the Glacier Peaks Wilderness Boundary to beginning. (See Wenatchee National Forest map)

Deer Area No. 020 Desert (Grant County): That part of GMU 278 (Wahluke) north of O'Sullivan Road and east of Beverly Road.

Deer Area No. 031 Patterson (Benton and Klickitat counties): Beginning at the junction of Highway 14 at Patterson; then west on Highway 14 to Alderdale Road; then north on Alderdale Road (including Section 22 of Township 5N, R23E) to Smith Road; then east on Smith Road to McKinley Springs Road; then northeast on McKinley Springs Road to Horrigan Road; then east on Horrigan Road to Highway 221; then south on Highway 221 to Highway 14 and point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 040 Foss River (King County in the Alpine Lakes Wilderness Area): Beginning at the intersection of the Dingford Creek Trail (USFS Trail 1005) and the Alpine Lakes Wilderness Area Boundary; then north along USFS Trail 1005 to Little Myrtle Lake; then in a northeast line approximately one-half mile to Marlene Lake; then down the tributary from Marlene Lake to its intersection

with USFS Trail 1072 near Lake Dorothy; then north along USFS Trail 1072 to its intersection with the Alpine Lakes Wilderness Area Boundary; then north and east along the wilderness boundary to the Pacific Crest Trail at Hope Lake; then south along the Pacific Crest Trail to Ridge Lake; then in a northwest direction approximately one-half mile to Gravel Lake; then down the Gravel Lake tributary to Goat Creek; then down Goat Creek to its intersection with Alpine Lakes Wilderness Area Boundary; then north and west along the wilderness area boundary to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 041 Pilchuck (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along Highway 530 to a point in Section 10, T32N, R7E where it intersects with the City of Seattle power transmission line; then southwest along the transmission line to the point where it crosses the divide between Jim Creek and the North Fork of Canyon Creek (Section 11, T31N, R7E); then down the North Fork of Canyon Creek and Canyon Creek to the South Fork Stillaguamish River; then down the Stillaguamish River to Jordan Road; then along Jordan Road to Granite Falls; then south along Menzel Lake Road to the Pilchuck River Road (P-5000); then east on P-5000 Road to Culmback Dam (Spada Lake); then southeast on Culmback Dam Road to Sultan Basin Road at Olney Pass; then south on Sultan Basin Road to Kellogg Lake Road to U.S. Highway 2 east of Sultan; then west on U.S. Highway 2 to Monroe; then south on Highway 203 to Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas & Gazetteer or Mount Baker/Snoqualmie National Forest map)

Deer Area No. 042 Tolt (King and Snohomish counties): Beginning at intersection of Highway 202 and the Tokul Creek Road S.E. (near Snoqualmie Falls); then north on Tokul Creek Road S.E. and onto S.E. 53rd Way then onto the S.E. 53rd Road; then along S.E. 53rd Road to its junction with the Weyerhaeuser mainline; then north on Weyerhaeuser mainline road through Gate 4 onto the Weyerhaeuser mainline truck road; then north on Weyerhaeuser mainline truck road (approximately 23 miles) to its junction with Proctor Creek Road; then north on Proctor Creek Road to its junction with Highway 2; then west on U.S. Highway 2 to its junction with Highway 203 at Monroe; then south on Highway 203 to its junction with Highway 202; then east along Highway 202 to the point of beginning. (See Washington Atlas & Gazetteer or Weyerhaeuser Recreational map and Thomas Brothers Guide)

Deer Area No. 060 Olympic Wilderness (Clallam, Jefferson, Grays Harbor and Mason counties): The Buckhorn, Colonel Bob, Mt. Skokomish, the Brothers and Wonder Mountain Wilderness areas of Olympic National Forest. (See Olympic National Forest map for these primitive roadless areas)

Deer Area No. 061 Marrowstone Island (Jefferson County): Marrowstone Island in Jefferson County. (See Washington Atlas & Gazetteer)

Deer Area No. 062 Indian Island (Kitsap County): Indian Island in Kitsap County.

AMENDATORY SECTION (Amending WSR 95-11-035, filed 5/10/95, effective 6/10/95)

WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

Elk Area No. 001 Trinidad (Grant, Douglas, Okanogan, Adams and Franklin counties): All of Douglas, Grant, Okanogan, Adams, and Franklin counties except closed in the corridor described as follows: Beginning at East Wenatchee and Highway 28 and proceeding along Highway 28 to Road "U" N.W. in Grant County; then south on Road "U" N.W. to Road "9" N.W.; then west on Road "9" N.W. to Ancient Lake Road; then south on the Ancient Lake Road to the northwest corner of Section 8, T19N, R23E W.M. (yellow cattle guard); then west to midstream of the Columbia River; then north up midstream of the Columbia River to East Wenatchee and the point of beginning. (See official road map of Douglas and Grant counties)

Elk Area No. 002 Caribou (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction at the USFS 3517 Road; then east and south along USFS 3517 Road and Lillard Hill Road to the Bonneville Powerlines; then east along the Bonneville Powerlines to the Colockum Pass-Brushy Road (cattle guard); then east along the Brushy Road to the Crossover Road; then south along the Crossover Road to the Perkins/Caribou junction; then east along the Perkins Road to the Beacon Ridge Road; then south along the Beacon Ridge Road to the Old Vantage Highway; then south along a county service road to Interstate 90; then west along Interstate 90 to the Highline Canal near the Stevens Road; then northwest along the Highline Canal to the point of beginning. (See Department of Fish and Wildlife map)

Elk Area No. 003 Kingsbury (Chelan and Kittitas counties): That portion of GMU 314 which lies east of the Stemilt Creek, Stemilt Creek Road, Stemilt Hill Road, Stemilt Loop Road and Jump Off Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 004 Wenatchee (Chelan, Kittitas and Okanogan counties): GMUs 300, 304, 306, 308, 316, that portion of 302 which lies in Chelan County; and that portion of 314 which lies west of the following boundaries: Beginning at the mouth of the Stemilt Creek at the Columbia River, south up Stemilt Creek to the Stemilt Creek Road to the Stemilt Hill Road; then east and south along the Stemilt Hill Road to the Stemilt Loop Road; then east along the Jump Off Road to the Jump Off Ridge Road (Bonneville Powerlines); then south along the Jump Off Ridge Road to the Naneum Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 010 South Spokane (Spokane County) the following portion of game management units 127 and

130: Beginning at Tyler near the junction of Tyler Road (State Highway 904) and I-90; then northeast along I-90 to the Idaho state line; then south along the Washington-Idaho line to Elder Road; then west along Elder Road to Hangman Creek; then north along Hangman Creek to State Highway 195 at Hatch Road; then south along State Highway 195 to the Cheney Spangle Road; then west along the Cheney Spangle Road to Cheney; then west along Tyler Road (State Highway 904) to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 025 Backbone (Lewis County): Beginning at State Highway No. 12 at the Pacific Crest Trail; then northwest and southwest along State Highway No. 12 to Coal Creek in Section 1, T13N, R9 E.W.M.; then north along the range line between Ranges 9 and 10 E.W.M., across the Cowlitz River to the Gifford Pinchot National Forest Boundary in the N.E. corner of Section 1, T13N, R9 E.W.M.; then southwest along the National Forest Boundary to the Skate Creek Road (first contact) in Section 9, T13N, R9 E.W.M.; then northwest along the Skate Creek Road to the mouth of Horse Creek and the south boundary of Mt. Rainier National Park; then east along the south park boundary to the Pacific Crest Trail; then south along the Pacific Crest Trail to State Highway 12 and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 029 Toledo (Lewis and Cowlitz counties): Beginning at Interstate 5 and State Highway 505 junction; then east along State Highway 505 through the City of Toledo to the Layton Road; then north along the Layton Road to the Evans Road; then east along the Evans Road to the Weyerhaeuser 1800 line to the Weyerhaeuser 1890 line to State Highway 504; then west along State Highway 504 to the Tower Road; then west on Tower Road to the junction of Tower Road and State Highway 504; then west on State Highway 504 to Interstate 5; then north on Interstate 5 to the junction with State Highway 505 and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 030 Reecer Creek (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction of the USFS 3517 Road; then east and south along the USFS 3517 Road and Lillard Hill Road to the Wilson Creek Road to the Highline Canal; then west along the Highline Canal to the point of beginning. (See Wenatchee National Forest map)

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at ~~((Damon))~~ Umtanum Road and the Yakima River; then west along ~~((Damon))~~ Umtanum Road to Manastash Road; then ~~((west))~~ north on Manastash Road to Cove Road; then south and west on Cove Road to Hanson Road and Umtanum Creek; then east (downstream) along Umtanum Creek to the Yakima River; then north (upstream) along the Yakima River to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 032 Malaga (Kittitas and Chelan counties): Beginning at the power line on the Columbia River (approximately 3/4 mile downstream from Colockum Creek); then west and south along the Powerline Road to the intersection with the North Fork Tarpiscan Creek Road (Section 9, T20N, R21E); then north and west along North Fork of

Tarpiscan Creek Road to Colockum Pass Road (Section 9, T20N, R21E); then south and west on Colockum Pass Road to section line between Sections 8 and 9 as well as Sections 4 and 5 (T20N, R21E) and Sections 32 and 33 (T21N, R21E); to Mose Carr Road; then west and north on Mose Carr Road to Jump Off Road; then south and west on Jump Off Road to Shaller Road; then north and west on Shaller Road to Upper Basin Loop Road; then north and west on Upper Basin Loop Road to Wheeler Ridge Road; then north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); then north on the Basin Loop Road to Wenatchee Heights Road; then west on Wenatchee Heights Road to Squilchuck Road; then south on Squilchuck Road to Beehive Road (USFS Road 9712); then northwest on Beehive Road to USFS Road 7100 near Beehive Reservoir; then north and west on USFS Road 7100 to Peavine Canyon Road (USFS Road 7101); then north and east on Peavine Canyon Road to Number Two Canyon Road; then north on Number Two Canyon Road to Crawford Street in Wenatchee; then east on Crawford Street to the Columbia River; then south and east along the Columbia River to the powerline south of Colockum Creek and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; then west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); then west on USFS 7101 Road to Mission Creek Road; then north on Mission Creek Road to USFS 7104 Road (Sand Creek); then west on USFS 7104 Road (Sand Creek) to Camas Creek; then west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; then north along USFS 7200 Road to U.S. Highway 97; then north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); then north on the USFS 7300 Road to the Wenatchee River at Leavenworth; then down the Wenatchee River and Columbia River to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 034 Parke Creek (Kittitas County): Beginning at the Highline Canal on Parke Creek Road; then north to the BPA Powerlines; then west along BPA Powerlines (through Sections 22, 16, 8, 5, and 6) to the Cook Canyon Road; then north on Cook Canyon Road to Bonneville Powerlines (Section 19); then west along Bonneville Powerlines to Wilson Creek Road; then south on the Wilson Creek Road to the Highline Canal; then southeast along the Highline Canal to point of beginning. (See Department of Fish and Wildlife map)

Elk Area No. 035 Brushy (Kittitas County): Beginning at the mouth of Brushy Creek on the Columbia River; then west up Brushy Creek to Road 14; then north on Road 14 to the top of the hill in Section 13, T19N, R21E; then northeast to the end of the open road in Tekison Creek (Section 6, T19N, R21E); then east along Tekison Road and Tekison Creek to the Columbia River; then south along the Columbia River to Brushy Creek and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 039 Backbone (Lewis County): Legal description same as Elk Area No. 025 (Backbone). (See Gifford Pinchot National Forest map)

Elk Area No. 050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection; then west to the Mauerman Road; then west and southwest on the Mauerman Road to the Pe Ell/McDonald Road; then south and east on the Pe Ell/McDonald Road to the Lost Valley Road; then south and southeast on the Lost Valley Road to the Boistfort Road; then east and north along the Boistfort Road to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 051 Doty (Lewis and Pacific counties): Beginning on State Highway 6 at the Town of Adna; then west on Highway 6 to Stevens Road; then northwest on Stevens Road to Elk Creek Road (Doty); then west on Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road, east on Garrard Creek Road to Manners Road; then south on Manners Road to Lincoln Creek Road; then east along Lincoln Creek Road to Ingalls Road; then south and east on Ingalls and Bunker Creek Roads to the Town of Adna and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 052 Mayfield (Lewis County): Beginning at the junction of Highway 12 and the Winston Creek Road; then southeast and north along the Winston Creek Road, Longbell, Perkins, Green Mountain roads to Riffe Lake; then west and northwest along the shoreline of Riffe Lake to the Cowlitz River; then west along the Cowlitz River to Highway 12; then west along Highway 12 to the Winston Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 053 Randle (Lewis County): Beginning at State Highway 12 and the Cispus Road in the Town of Randle; then east along Highway 12 to the Bennett Road approximately one mile east of Cora Bridge; then west on Bennett and Cline Roads to the Cispus Road; then north on said road to the Town of Randle and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the Town of Vader; then west along State Highway 506 to the Wildwood Road; then north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); then northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; then northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); then west along the Pe Ell/McDonald Road to the Lost Valley Road; then northeast along the Lost Valley Road to the Boistfort Road; then north along the Boistfort Road to the King Road; then east along the King Road to the town of Winlock and State Highway 603; then south along Highway 603 to the Winlock/Vader Road; then south along said road to the Town of Vader and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; then west on East Valley Road to the junction with Middle Valley Road (4.5 miles); then north along Middle Valley Road to the junction

of Oat Field Road (2.5 miles). (See Washington Atlas & Gazetteer)

Elk Area No. 057 Carlton (Lewis County): That part of GMU 514 (Tatoosh) lying east of Highway 123 and north of Highway 12. (See Gifford Pinchot National Forest map)

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the ((Caseade)) Pacific Crest Trail. (See Gifford Pinchot National Forest map)

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness. (See Gifford Pinchot National Forest map)

Elk Area No. 061 Mt. Tebo (Mason County): Beginning at the junction of the North Fork and South Fork of the Skokomish River; then northwest along the South Fork to the boundary of Olympic National Park; then east along the National Park boundary to the North Fork of the Skokomish River; then southeast down the North Fork of the Skokomish River through Lake Cushman; then south down the North Fork of the Skokomish River to the South Fork of the Skokomish River and the point of beginning. (See Olympic National Forest map and Washington Atlas & Gazetteer)

Elk Area No. 063 South Elma (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on the South Bank Road to the Delezene Road; then south on the Delezene Road to the K Line Road to the A Line Road; then south on the A Line Road to the T Line Road; then south on the T Line Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning. (Contact Montesano Office for map of the area.)

Elk Area No. 062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on the South Bank Road to Delezene Road; then south on the Delezene Road to a point one mile from the South Bank Road; then southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning. (Contact Montesano Office for map of area.)

Elk Area No. 065 Willapa Valley (Pacific County): That part of Pacific County within two miles of State Highway 6 between Menlo and the easternmost junction of Elk Prairie Road and State Highway 6. (See Washington Atlas & Gazetteer)

Elk Area No. 066 Twin Valley (Grays Harbor County): Beginning in the City of Hoquiam at the junction of U.S. Highway 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam-Wishkaw Cutoff Road in Section 21, T19N, R9 W.W.M.; then east on the East Hoquiam-Wishkaw Cutoff Road to its

junction with the Wishkah Road; then south on the Wishkah Road to its junction with the Wishkah-Wynoochee Crossover Road in Section 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkery A line; then north on the A line to its junction with the A 2200; then east on the A 2200 Road to its junction with the A 2210; then south on the A 2210 Road to a point crossed by the township line between T20N and R19N; then east on the township line to its junction with the Wynoochee River Road; then south along the Wynoochee River Road to U.S. Highway No. 12; then west along U.S. Highway 12 to its junction with U.S. Highway No. 101 in the City of Aberdeen; then west on U.S. Highway 101 to the City of Hoquiam and junction with the East Hoquiam Road and the point of beginning. (See Weyerhaeuser Clemons Tree Farm Hunting map)

Elk Area No. 067 South Willapa (Pacific County): Beginning in the City of South Bend at the junction of U.S. Highway 101 and the Skidmore Slough C-line; then south on the Skidmore Slough C-line to its junction with the B-line in Sec. 11, T13N, R9 W.W.M.; then southeast on the B-line to its junction with the A-line in Sec. 18, T13N, R8 W.W.M.; then east and north on the A-line to its junction with the South Fork Willapa Road; then east along the South Fork Willapa Road to State Highway No. 6, Sec. 10, T13N, R8 W.W.M.; then northwest on State Highway No. 6 to its junction with U.S. Highway 101; then southwest on U.S. Highway 101 to its junction with the Skidmore Slough C-line and the point of beginning. (See Forest Protection map "Willapa Hills")

Elk Area No. 069 Chinook (Pacific County): Beginning at the junction of U.S. Highway 101 and Lingenfelter Road west of the town of Chinook; then northwest on Prest Road to its junction with Chinook Valley Road; then west on Chinook Valley Road to its intersection with the east branch of the Wallacut River; then north along the Wallacut River to its intersection with Highway 101; then west on Highway 101 to the junction of Highway 101 alternate; then south on Highway 101 alternate to Highway 101; then east on Highway 101 to Prest Road and the point of beginning. (See Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

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

AMENDATORY SECTION (Amending Order 94-57, filed 8/31/94, effective 10/1/94)

WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Muzzleloader Area No. 908 Acme (Whatcom County): Same as Bow Area No. 808. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 910 Cle Elum (Kittitas County): Beginning at Easton; then southeast along the main BPA Powerlines to ~~((the Fowler Creek Road (4517); southeast on Spur Road 117))~~ Big Creek; then west and south on the Big Creek Trail to its junction with USFS Road 4517; then east

on USFS Road 4517 to its junction with Spur Road 117 (at the powerlines); then to Granite Creek Trail 1326; then south on Granite Creek Trail 1326 to the top of South Cle Elum Ridge; then east along the ridge on Granite Creek Trail 1326 to Spur Road 111; then east on Road 111 to the Peoh Point Road (3350); then southeast on Road 3350 to the junction with Road 3352; then east on Road 3352 to the Cedar Creek Road; then south on the Cedar Creek Road to the Morrison Canyon Road; then southeast on the Morrison Canyon Road to Interstate Highway 90; then east on I-90 to Exit 106 and junction with U.S. Highway 97; then north on U.S. Highway 97 to Hungary Junction Road and east on Hungary Junction Road to Look Road; then ~~((north))~~ south on Look Road ((and east on Alford Road)) to Brick Mill Road; then east on Brick Mill Road to Venture Road to Lyons Road; then east on Lyons Road to Fox Road; then south on Fox Road to Christensen Road; then east on Christensen Road to Parke Creek Road; then east and north on Parke Creek Road to the BPA powerlines (Section 22, T18N, R20E) north of Parke Creek Group Home; then northwest along BPA Powerlines to Colocum Pass Road; then north on the Colocum Pass Road to upper powerlines (Section 16, T19N, R20E); then west along BPA powerlines to the Wilson Creek Road; then north on Wilson Creek Road to the Lillard Hill Road; northwest on Lillard Hill Road to USFS Road 3517; then northwest on USFS Road 3517 to the Reecer Creek Road, USFS Road 35; then south on USFS Road 35 to USFS Road 3507 and then northwest on USFS Road 3507 to Spur Road 120 (Snowshoe Ridge Road); then west on Spur Road 120 (Snowshoe Ridge Road) to Spur Road 114; then north and south on Spur Road 114 to Spur Road 116; then north on Spur Road 116 to USFS Road 9718 (~~Cougar Gulch Road~~); then southwest on USFS Road 9718 (~~((Cougar Gulch Road))~~) through the town of Liberty to U.S. Highway 97; then north on U.S. Highway 97 to USFS Road 9738, Blue Creek; then west on USFS Road 9738 to USFS Road 9702 Dickey Creek; then west on USFS Road 9702 to the North Teanaway Road; then south to the junction with Middle Fork Teanaway Road; then west on Middle Fork Road 1/4 mile to Teanaway Campground; then south up #17 Canyon Road to Cle Elum Ridge Road; then west along Cle Elum Ridge Road and south to the bottom of #5 Canyon Road; then south to Highway 903 and Bullfrog Road (Sportland Mini-Mart); then south on Bullfrog Road to Interstate Highway 90; then west on Interstate Highway 90 to Easton and point of beginning. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

Muzzleloader Area No. 921 Baleville (Pacific County): Beginning at the junction of the Hammond Road and U.S. Highway 105; then north on the Hammond Road to the radio towers; continue north on the D 2100 line to its junction with the D-line; then northwest along the D-line (also known as the Rayonier 2720) to its junction with the Rayonier 2700 line; then southwest on the Rayonier 2700 line to its junction with Highway 105; then east on Highway 105 to the Hammond Road and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the Town of Ritzville; then south along S.R. 261 to S.R. 26; then east on S.R. 26 to the Whitman County line; then north

along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line; then north along the Adams, Lincoln County line to Interstate 90; then west along Interstate 90 to point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 926 Guemes (Skagit County): That part of GMU 405 (Chuckanut) on Guemes Island.

Muzzleloader Area No. 940 Coal Creek (Skagit County): Beginning at the point where State Highway 20 crosses Childs Creek approximately one mile west of Lyman; then north up said creek to Crown Pacific 110 Road; then west along said road to Crown Pacific 130 Road; then west along said road to Crown Pacific 132 Road; then continue west along said road to where it crosses Hanson Creek; then south down Hanson Creek to State Highway 20 to Childs Creek and point of beginning.

Muzzleloader Area No. 944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); then north to USFS Road 1712; then east on USFS Road 1712 (Clemen Ridge Road) to the east edge of Meyster Canyon; then along the east side of Meyster Canyon to the elk fence; then west along the elk fence to Waterworks Canyon and Highway 410 and to point of beginning. (See Wenatchee National Forest map)

Muzzleloader Area No. 950 Toutle Mountain (Cowlitz County): Beginning at the confluence of the South Fork Toutle River and the North Fork Toutle River; then up the South Fork Toutle River to Johnson Creek; then up Johnson Creek to the Weyerhaeuser Company 4400 Road; then northeast on the 440 Road to the 2421 Road; then north to the 2400 Road; then east on the 2400 Road to Alder Creek; then north down Alder Creek to the North Fork Toutle River; then west down the North Fork Toutle River to the confluence with the South Fork Toutle River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 961 Hoko River (Clallam County): Within one mile of the Hoko County Road between Highway 112 and the Olympic National Park Boundary near Lake Ozette. (See Olympic National Forest map)

Muzzleloader Area No. 962 Elwha (Clallam County): Beginning at the U.S. Highway 101 Bridge on the Elwha River; then south on the Elwha River to the Olympic National Park Boundary; then along Olympic National Park Boundary to the section line between Sections 32 and 33 of T30N, R7 W.W.M.; then north on the section lines to U.S. Highway 101; then east on U.S. Highway 101 to Elwha River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 963 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) beginning at the junction of Wright Canyon Road and South Shore Road; then north to the shoreline of Lake Quinault; then north along Lake Quinault to the Olympic National Park (ONP) boundary; then east along ONP boundary to its intersection with the South Shore Road and U.S. Forest Service boundary; then west along the U.S.

Forest Service boundary to the Wright Canyon Road Junction with the South Shore Road and point of beginning.

AMENDATORY SECTION (Amending Order 649, filed 5/10/94, effective 6/10/94)

WAC 232-28-02250 Game management units (GMUs)—Special game areas—Boundary descriptions—Goat units.

Goat Unit 2-1 Mount Chopaka: Permit Area: Okanogan County within the following described boundary: Beginning where the Similkameen River crosses the Canadian boundary near Mt. Chopaka; then south down the Similkameen River and up Palmer Lake and Sinlahekin Creek to Toats Coulee Creek; then west up Toats Coulee Creek and north up the North Fork Toats Coulee Creek; then up Snowshoe Creek to Snowshoe Mountain; then north to the Canadian boundary; then east along the Canadian boundary to the Similkameen River and point of beginning; **EXCEPT CLOSED** in T39N, R25EWM, which includes Grandview Mountain.

Goat Unit 2-2 Methow Area: Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road 4440) to Roads End; west up the Twisp Pass Trail 432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road 5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-1 East Stevens Pass: Permit Area: Chelan County within the following described boundary: Beginning at Stevens Pass; then north along the Cascades Summit to Cady Pass and the source of the Little Wenatchee River; then down the Little Wenatchee River, Lake Wenatchee and the Wenatchee River to U.S. Highway 2; then north and west along U.S. Highway 2 to Stevens Pass and point of beginning **EXCEPT** those lands within 1/2 mile of Alpine Lookout.

Goat Unit 3-2 North Wenatchee Mountains: Permit Area: Chelan County south of the Stevens Pass Highway, west of the Blewett Pass Highway, and north of Ingalls Creek, and Kittitas County north of the following described line: Beginning at Ingalls Peak; then down Fortune Creek to the Cle Elum River; then up the Cle Elum River to the Cascade Summit at Deception Pass.

Goat Unit 3-3 Goat and Davis Mountains: Permit Area: Kittitas County west of the Cle Elum River, north of the Waptus River, and east and south of Trail Creek Trail.

Goat Unit 3-4 Snoqualmie: Permit Area: Kittitas County within the following described boundary: Beginning at Snoqualmie Pass; then north along the Cascade Crest to Deception Pass and the headwaters of the Cle Elum River; then south along the Cle Elum River to the Trail Creek Trail 1322; then southwest along the Trail Creek Trail to the Waptus River Trail 1310; then southeast along the Waptus River Trail to the Cle Elum River at the Salmon la Sac campground; then south along the Cle Elum River to the

Cooper Pass Road (USFS Road 4600); then west along the Cooper Pass Road, through Cooper Pass to the road end near the Kachess River; then south along the Kachess River and Kachess Lake to Interstate Highway 90; then west along Interstate Highway 90 to Snoqualmie Pass and point of beginning.

Goat Unit 3-5 Cle Elum: Permit Area: Kittitas and Chelan counties within the following described boundary: Beginning at the point where Interstate Highway 90 crosses the Cle Elum River; then north along the Cle Elum River to Fortune Creek; then east along Fortune Creek to Ingalls Peak and the headwaters of Ingalls Creek; then south and east along Ingalls Creek to U.S. Highway 97; then south along U.S. Highway 97 and State Highway 970 to Interstate 90 at Cle Elum; then west along Interstate 90 to the Cle Elum River and point of beginning.

Goat Unit 3-6 Naches Pass: Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-8 Bumping River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakima Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 3-10 Blazed Ridge: Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snowshoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

Goat Unit 3-11 Kachess Ridge: Permit Area: Kittitas County within the following described boundary: Beginning at the mouth of the Kachess River on the Yakima River; then north along the Kachess River and Kachess Lake to

USFS Road 4600; then east on USFS Road 4600 to the Cle Elum River; then south along the Cle Elum River and Lake Cle Elum to the Yakima River; then northwest along the Yakima River to the mouth of the Kachess River and point of beginning.

Goat Unit 4-1 Ruth Creek Area: Permit Area: Whatcom County within the Mt. Baker Wilderness of the Mt. Baker-Snoqualmie National Forest north of the North Fork Nooksack River.

Goat Unit 4-3 Chowder Ridge: Permit Area: Whatcom County within the following described boundary: Beginning where Wells Creek intersects the North Fork Nooksack River; then up Wells Creek to Bar Creek; then southwest up Bar Creek to the Mazama Glacier; then continue southwest up Mazama Glacier to the summit of Mt. Baker; then northwest between Roosevelt Glacier and Coleman Glacier to Kulshan Cabin and the headwaters of Kulshan Creek and Grouse Creek to Smith Creek; then north down Smith Creek to Glacier Creek; continue north down Glacier Creek to the North Fork Nooksack River; then east along the North Fork Nooksack River to Wells Creek and the point of beginning.

Goat Unit 4-4 Lincoln Peak: Permit Area: Whatcom County within the following described boundary: Beginning where Glacier Creek intersects with the Mt. Baker Highway (State Highway 547); then south up Glacier Creek to Smith Creek; then south up Smith Creek to Grouse Creek; then continue up Grouse Creek in a south direction to Kulshan Creek; then southeast up Kulshan Creek to Kulshan Cabin; then continue southeast between Roosevelt Glacier and Coleman Glacier to the summit of Mt. Baker; then south down Eastern Glacier to Baker Pass and the Baker Pass Trail 603 (5,000 ft.); then west along Baker Pass Trail 603 to the Ridley Creek Trail (690); then northwest on the Ridley Creek Trail to Ridley Creek; then down Ridley Creek to the Middle Fork Nooksack River; then west down the Middle Fork Nooksack River to the Mosquito Lake Road; then north on the Mosquito Lake Road to the Mt. Baker Highway (State Highway 542); then north and east on Mt. Baker Highway (State Highway 542) to Glacier Creek and the point of beginning.

Goat Unit 4-6 Dillard Creek: Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of USFS Road 3725 and the Baker Lake Road (USFS Road 394); then west along USFS Road 3725 to Sulphur Creek; then northwest up Sulphur Creek to the Baker Pass Trail (603) to Baker Pass (5,000 ft. elevation); then northeast up Eastern Glacier to the summit of Mt. Baker; then southeast down Park Glacier to the headwaters of Park Creek; then continue southeast down Park Creek to the Baker Lake Road (USFS Road 394); then south along the Baker Lake Road (USFS Road 394) to USFS Road 3725 and the point of beginning.

Goat Unit 4-7 Avalanche Gorge: Permit Area: Whatcom County within the following described boundary: Beginning at the intersection of the Baker Lake Road (USFS Road 394) and Park Creek; then northwest up Park Creek to Park Glacier; then continue northwest up Park Glacier to the summit of Mt. Baker; then northeast down Mazama Glacier to the 6,500 ft. elevation; then east to the Portals; then

continue east along the ridge line to Coleman Pinnacle; then northeast along the Camp Kiser Trail 683 (Ptarmigan Ridge) to the extreme southeast extension of Kulshan Ridge; then due east to the Lake Ann Trail 600; then east along the Lake Ann Trail 600 to the boundary of North Cascades National Park; then south and east along the park boundary to the Baker River and down the Baker River to the Baker Lake Road (USFS Road 394); then west along the Baker Lake Road (USFS Road 394) to Park Creek and the point of beginning.

Goat Unit 4-8 East Ross Lake: Permit Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of North Cascades National Park; then south along the park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to State Highway 20; then east and north along State Highway 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in Goat Unit 4-8, East Ross Lake. See description for Goat Unit 4-9, Jack Mountain.)

Goat Unit 4-9 Jack Mountain: Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-10 Majestic Mountain: Permit Area: Whatcom and Skagit counties within the following described boundary: Beginning at the intersection of Pyramid Creek and State Highway 20; then south up Pyramid Creek to the North Cascades National Park Boundary; then east along the park boundary to the Cascades Summit; then north along the Cascades Summit to Granite Creek; then west down Granite Creek to Ruby Creek and Ruby Arm; then continue west along Ruby Arm to Ross Lake and Ross Dam; then southwest from Ross Dam to State Highway 20; then southwest and northwest along State Highway 20 to Pyramid Creek and the point of beginning.

Goat Unit 4-12 Mt. Tommy Thompson: Permit Area: Skagit County within the following described boundary: Beginning at the confluence of Illabot Creek on the Skagit River; then east up Illabot Creek to its headwaters; then continue east over the ridge line to the northernmost extension of Buck Creek; then north over the ridge line at 6,921 foot elevation to the southernmost extension of Muchler

Creek; then northeast down Muchler Creek to Kindy Creek; then north down Kindy Creek to the Cascade River; then north and west down the Cascade River to the Skagit River; then west down the Skagit River to Illabot Creek and the point of beginning.

Goat Unit 4-14 Mt. Buckindy: Permit Area: Skagit and Snohomish counties within the following described boundary: Beginning at the confluence of Buck Creek on the Suiattle River; then east up the Suiattle River to Sulphur Creek; then continue east up Sulphur Creek to Dome Creek; then north to Sinister Mountain and the Cascades Summit; then north along the Cascades Summit to Mt. Formidable; continue north into the headwaters at the Middle Fork Cascade River; then west down the Middle Fork Cascade River to the main Cascade River; continue west along the Cascade River to Kindy Creek; then south up Kindy Creek to Muchler Creek; then southwest up Muchler Creek to its southernmost extension; then continue southwest over the ridgetop at 6,921 foot elevation to the northernmost extension of Buck Creek; then continue southwest down Buck Creek to the Suiattle River and the point of beginning.

Goat Unit 4-16 Glacier Peak: Permit Area: Snohomish County within the following described boundary: Beginning at Tenpeak Mountain on the Cascades Crest; then northeast to three lakes (approximately 1.75 miles northeast of Tenpeak Mountain); then north and west down the Suiattle River to Mill Creek; then up the Mill Creek Trail (790) and the Pacific Crest Trail (2000) to Mica Lake, Fire Creek Pass, and Glacier Creek; continuing down Glacier Creek to the White Chuck River; then up the White Chuck River to White Mountain at the Cascade Crest; then northeast along Cascade Crest to Tenpeak Mountain and the point of beginning.

Goat Unit 4-18 Sauk River: Permit Area: Snohomish County within the following described boundary: Beginning at the confluence of the Whitechuck River and Pugh Creek; then south up Pugh Creek to Round Lake; then south to USFS Trail 646; then west and south down this trail to the North Fork Sauk River; then east up said river to Sloan Creek; then up Sloan Creek to June Mountain; then due south to USFS Trail 1051; then east along said trail to the Pacific Crest Trail (2000); then north along the Pacific Crest Trail past White Mountain; then down the Whitechuck River to the confluence with Pugh Creek and the point of beginning.

Goat Unit 4-21 Liberty Mountain: Permit Area: Snohomish County within the following described boundary: Beginning at the Boulder River bridge on the Darrington-Arlington Highway (State Highway 530) to the town of Darrington; then south along the Darrington-Clear Creek Road (USFS Road 20) to the bridge over Clear Creek; then south up Clear Creek to the confluence with Helena Creek and southeast up Helena Creek to Windom Lake; then southeast over an unnamed ridge to Independence Lake and down USFS Trail 712 to intersection with USFS Road 4060; then south down said road to the South Fork Stillaguamish River; then west down said river to Canyon Creek; then northeast up Canyon Creek, North Fork Canyon Creek and Meadow Creek to Tupso Creek; then east up Tupso Creek to its easternmost point; then continue northeast to Boulder

River; then north down Boulder River to the bridge on State Highway 530 and the point of beginning.

Goat Unit 4-23 Twin Peaks: Permit Area: Snohomish County within the following described boundary: Beginning at the intersection of Falls Creek and the Mt. Loop Highway (USFS Road 322); then west up Falls Creek and along USFS Trail 645 to USFS Road 4060; then south down said road to the Mountain Loop Highway (Forest Road 20); then east and north on said highway to Falls Creek and the point of beginning.

Goat Unit 4-24 Sloan Peak: Permit Area: Snohomish County with the following described boundary: Beginning at the confluence of the South Fork and the North Fork of the Sauk River; then east up to the North Fork Sauk River to Sloan Creek; then south and southeast up Sloan Creek to June Mountain; then due south to USFS Trail 1051; then southwest along said trail to USFS Road 63; then continue southwest on said road to Silver Creek; then north up Silver Creek to Silver Lake; then north on USFS Trail 708 to Glacier Creek; then west along said creek to the South Fork Sauk River; then north down the South Fork Sauk River to the confluence of the North Fork Sauk River and the point of beginning.

Goat Unit 4-25 Vesper Peak: Permit Area: Snohomish County within the following described boundary: Beginning at the Mountain Loop Highway bridge over Bear Creek (approximately three miles east of Verlot); then east up said highway to USFS Trail 707; then southwest on said trail (between Sperry Peak and Morning Star Peak) to the Sultan River; then west down said river and Spada Lake to Culmback Dam; then north up unnamed creek to the Pilchuck-Sultan divide; then northwest along said divide to Ritz Creek; then northeast down Ritz Creek to the Pilchuck River; then northwest down said river to Wilson Creek; then northwest up Wilson Creek to Ashland Lakes on the Pilchuck-Stillaguamish divide; then north down Black Creek and Bear Creek drainage to the Mountain Loop Highway bridge over Bear Creek and the point of beginning.

Goat Unit 4-30 Tolt River: Permit Area: King and Snohomish counties within the following described boundary: Beginning at the point the Tolt River intersects the Weyerhaeuser Mainline Truck Road (approximately one mile west of the Tolt River South Fork Reservoir); then north along said road to the junction with State Highway 2; then east along said highway to the junction with the South Fork Skykomish River; then east and south up said river to the confluence of Money Creek; then west up Money Creek to Lake Elizabeth; then west to the headwaters of the South Fork Tolt River near Lake Elizabeth; then west down the South Fork Tolt River to the point of beginning. Except closed: All of the Mount Index and Mount Persis as follows: Beginning at confluence of South Fork Skykomish River and Index Creek; then west up said creek and its northern fork to Ink Lake; then west up the ridge to the 4,915 elevation point; then southwest down the ridge (approximately one and one-half miles) to the confluence of Titacled Creek and the North Fork Tolt River; then west along said river to the Weyerhaeuser Mainline Truck Road; then north along said road to State Highway 2; then east along said highway to where it intersects the South Fork

Skykomish River; then east along said river to the point of beginning.

Goat Unit 4-32 Foss River: Permit Area: King and Snohomish counties within the following described boundary: Beginning at intersection of U.S. Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with USFS Trail 1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 miles); then north down the stream outlet from Marlene Lake to the junction with USFS Trail 1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then east up said river to the junction with U.S. Highway 2; then east along said highway to the point of beginning.

Goat Unit 4-34 Pratt River: Permit Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate 90; then west along Interstate 90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning. Except closed: Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek.

Goat Unit 4-38 Corral Pass: Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail 1188; then northwest along said trail to USFS Trail 1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh: Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek: Permit area: Lewis County within the following described boundary: Beginning at the Town of Randle; then east along U.S. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23

to USFS Road 25; then north along USFS Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks: Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

Goat Unit 6-1 Elwha River: Permit Area: Clallam and Jefferson counties outside Olympic National Park and west of the Dungeness River.

Goat Unit 6-2 Quilcene River: Permit Area: Clallam and Jefferson counties outside Olympic National Park, east of the Dungeness River and north of the Dosewallips River.

Goat Unit 6-3 Hamma Hamma River: Permit Area: Jefferson and Mason counties outside Olympic National Park and south of the Dosewallips River.

AMENDATORY SECTION (Amending Order 651, filed 5/10/94, effective 6/10/94)

WAC 232-28-02270 Game management units (GMUs)—Special game areas—Boundary descriptions—Bighorn sheep units.

Sheep Unit 1 Okanogan: Permit Area: Okanogan County west of the Okanogan River.

Sheep Unit 2 Vulcan Mountain: Permit Area: Ferry County north of the Kettle River.

Sheep Unit 3 Tucannon River: Permit Area: The Tucannon River drainage in Columbia and Garfield counties.

Sheep Unit 5 Umtanum: Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of U.S. Highway 90 and west of Yakima River.

Sheep Unit 6 Murray: Permit Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of U.S. Highway 90.

Sheep Unit 7 Clemon Mountain: Permit Area: Yakima County within the following described area: Beginning at the mouth of Wenas Creek on the Yakima River; then Northwest up Wenas Creek to Malloy Road; then west on Malloy Road to USFS Road 1701; then west on USFS Road 1701 to State Highway 410; then southeast on Highway 410 to U.S. Highway 12; then southeast on Highway 12 to the Yakima River at Yakima; then north on the Yakima River to the mouth of Wenas Creek and point of beginning.

Sheep Unit 8 Mountainview: Permit Area: That part of Asotin County within the following described boundary: Beginning at Anatone; then west along the main Big Butte-Mount Misery Road to its junction with the Mountain Road (40); then south along the Mountain Road to the West Fork of Grouse Creek; then southeast down Grouse Creek to the Oregon-Washington boundary; then east along said boundary to State Highway 129; then north along State Highway 129 to Anatone and point of beginning.

Sheep Unit 9 Blackbutte: Permit Area: That part of Asotin County within the following described boundary: All of GMU 184 (Joseph), 185 (Blackbutte), and that part of GMU 181 (Couze) that drains into the Grande Ronde River

between the mouth of the Grande Ronde River and State Highway 129.

Sheep Unit 10 Mt. Hull: Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

Sheep Unit 11 Wenaha Wilderness: Permit Area: The Crooked Creek drainage in Asotin, Garfield, and Columbia counties within the boundary of GMU 169.

AMENDATORY SECTION (Amending Order 94-141, filed 1/10/95, effective 2/10/95)

WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions—Cougar areas.

COUGAR PERMIT AREA DESCRIPTIONS

Unit	Description
1	Pend Oreille—GMU 113
2	Colville—GMUs 108, 111, 118, and 119
3	Republic—GMUs 100, 103, 105, 200, and 206
4	Spokane—GMUs 121 and 124
5	Blue Mountains—GMUs 145-154, 160-166 and 172-185
6	Wenaha—GMU 169
7	Okanogan—GMUs 203, 209-242, and 300
8	Chelan—GMUs 301-335
9	Yakima—GMUs 336-372
10	Nooksack—GMUs 417, 418
11	Skagit—GMUs 426, 433, 440-448, and 450
12	Snoqualmie—GMUs 454, 460, 466, 472, and 490
13	North Olympic Peninsula—GMUs 601-615, that portion of GMU 621 north of the Dosewallips River, and GMU 624
14	South Olympic Peninsula—GMUs 618, 636, 638, 642, 648, and that portion of GMU 621 south of the Dosewallips River
15	Rainier—GMUs 478 (including PLWMA 401), 484 (including PLWMA 401), 505, 510, 512, 514, 516((††)) ₁ , and 667
16	South Puget Sound—GMUs 627, 633, 651, 663, and 666
17	Cowlitz—GMUs 520, 550, 556, and 558
18	Skamania—GMUs 560, 568, 572, 574, and 576
19	Pacific—GMUs 658, 660, 669, 672, 678, 681, and 684

PERMANENT

AMENDATORY SECTION (Amending Order 653, filed 5/10/94, effective 6/10/94)

WAC 232-28-02290 Game management units (GMUs)—Special game areas—Boundary descriptions—Private lands wildlife management areas.

Area Description

PLWMA 201 - Wilson Creek (Grant County): This area surrounds Billy Clapp Lake directly north of the town of Stratford and northwest of the town of Wilson Creek. The legal description is T22N, R29E; North 1/2 of Section 3, Section 4* except southeast 1/4 of southeast 1/4; Sections 5((=)) and 6((=)) north of State Highway 28; Sections 8((=)) and 9. T23N, R29E, Sections 5, 7, 8, 13, 14, 17, and 18; Section 19 except for northwest 1/4 of the southwest 1/4; Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; southeast 1/4 of Section 30; Sections 31, 32, 33, 34, and 35. T23N, R28E, Section 2, Section 3 except west 1/4; Section 4 except southwest 1/4 and east 1/2 of southeast 1/4; Section 5; Section 6 except west 1/4; Sections 7 and 8; Section 9 except east 1/2 of southeast 1/4; north 1/2 of Section 10 except west 1/4; Section 11 except south 1/4; Section 15; Section 16 except northeast 1/4; Sections 17, 18, 19, 20, 21, 22, and 23; west 1/4 of Section 24*; Sections 26, 27, 28, 29, 30, and 33; west 1/2 of Section 34 except south 1/4; Section 35. T24N, R29E, west 1/2 of Section 32. T24N, R28E, Section 35. *Public lands within the external boundaries are not part of the PLWMA.

PLWMA 401 - Champion (Pierce County): Beginning at the intersection of Champion haul road (Champion 1 Rd.) and the Camp One Road near the town of Kapowsin; then southwest along Champion 1 Rd. to east side of Lake Kapowsin; then along east side of Lake Kapowsin to Ohop Creek; then up Ohop Creek to Champion ownership line; then along ownership line to N.W. corner Section 31, T17N, R5E; then south along section line to 1/4 corner Section 6, T16N, R5E; then easterly along Weyerhaeuser/Champion ownership line to intersection with Busy Wild Creek; then up Busy Wild Creek to intersection with Champion ownership on the section line between Sections 10 & 15, T15N, R6E; then west and south along DNR/Champion ownership line and Plum Creek Timber Co./Champion ownership line to most southerly point of Champion ownership (northwest of Ashford, WA); then easterly along Champion ownership line to DNR/Champion ownership line; then north and east to USFS/Champion ownership line; then north along USFS/Champion ownership line to S.W. corner Section 31, T16N, R7E; then east along USFS/Champion ownership line to S.E. corner Section 31, T16N, R7E; then north along USFS/Champion ownership line to N.W. corner Section 32, T16N, R7E; then east along Plum Creek Timber Co./USFS ownership line to N.E. corner Section 32, T16N, R7E; then south along USFS/Champion ownership line to S.E. corner Section 32, T16N, R7E; then ~~((east))~~ west along USFS/Champion ownership line to Mount Rainier National Park Boundary; then north along Mount Rainier National Park Boundary to N.E. corner Section 33 T17N, R7E; then following north and east along USFS/Champion ownership line to intersection with SR 165 near the N.E. corner Section 24, T17N, R7E; then northwest along SR 165 to intersection with Carbon River; then down Carbon River to the

~~((Carbonado/Electron powerline; then south and west along the powerline to Champion's 12 road))~~ BPA Transmission Line; then south and west along the ~~((12 road))~~ powerline to the Fisk Road; then south along the Fisk Road to the King Creek Gate; then north and west along the Brooks Road BPA Transmission line; then southwest along BPA Transmission line to the Puyallup River (excluding all small, private ownership); then up Puyallup River to intersection with Champion haul road bridge; then south along Champion haul road to point of beginning. Another portion of PLWMA 401 Champion is the Buckley block (Kapowsin North described as follows: Beginning at the intersection of the BPA Transmission line and South Prairie Creek; then up South Prairie Creek to East Fork South Prairie Creek; then up East Fork South Prairie Creek to Plum Creek Timber Co./Champion ownership line (on south line of Section 33, T19N, R7E); then along Champion ownership line to center line of Section 34, T19N, R7E; then north and east along DNR/Champion ownership line to S.W. corner Section 27, T19N, R7E; then north along Weyerhaeuser/Champion ownership line to White River; then down White River to where it crosses west line Section 6, T19N, R7E; then south and west along Champion ownership line to intersection with South Prairie Creek; then up South Prairie Creek to point of beginning.

PLWMA 401A - Kapowsin North (Buckley): That portion of PLWMA 401 description which includes the Buckley block.

PLWMA 401B - Kapowsin Central (King Creek): That portion of PLWMA 401 description which lies to the north of the Puyallup River, excluding the Buckley block.

PLWMA 401C - Kapowsin South (Kapowsin): That portion of PLWMA 401 description which lies to the south of the Puyallup River.

AMENDATORY SECTION (Amending Order 94-142, filed 1/10/95, effective 2/10/95)

WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

DEER

Bag Limit: One (1) deer per hunter during an annual (July 1-March 31) hunting season. The fish and wildlife commission may authorize two doe permits for damage areas. Any multiple doe permits will be identified by special permit.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs

have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, 328, 329, 330, 342, and 450.

Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, un-

altered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

General Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
Northeastern				
100-124 (See late buck for extended whitetail season).	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only*
Southeastern				
127-185 Except closed in 157	Oct. 15-23	Oct. 14-22	Oct. 12-20	3 pt. min.*
Okanogan & Chelan				
<u>200-209, 239-242</u>	Oct. 15-31	Oct. 14-27	Oct. 12- (31) <u>25</u>	Buck only except 3 pt. min. in GMU(s) 203 (and 231).
<u>215-233</u>			<u>Oct 12-20</u>	<u>Buck only except 3 pt. min. in GMU 231</u>
300-316	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMU 306
Columbia Basin				
248-278**, 284	Oct. 15-21	Oct. 14-20	Oct. 12-18	Buck only
281	Oct. 15-23	Oct. 14-22	Oct. 12-20	Either sex
Colockum and Central				
((328-)) 334	Oct. 15-25	Oct. 14-25	Oct. 12-25	Buck only
<u>328, 329, 330, 342</u>			<u>Oct. 12-18</u>	<u>3 pt. min.</u>
<u>371</u>			<u>Oct 12-20</u>	<u>Buck only</u>
((335-372)) <u>335-340, 346-368, 372</u>	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only

PERMANENT

Western

405***-572, 580, 601-684. Closed in GMU 522. Permit only in GMU 485.	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except either sex in GMUs 410, 480, and 564; and 2 pt. min. in GMUs 433, 478, 558, 636, and 681; and 3 pt. min. in GMU 450.
574, 576, 584, 586, 588	Oct. 15-Nov. 6	Oct. 14-Nov. 14	Oct. 12-Nov. 6	2 pt. min.

*Hunters meeting the requirements of disabled, senior or youth may hunt antlerless whitetail during the general buck season in GMUs 105-142.

**Except by permit only in that portion of GMU 278 north of O'Sullivan Road and east of Beverly Road.

***Modern firearm deer hunting on Guemes Island is by permit only.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
105-124	Nov. 1-20	Nov. 1-19	Nov. 1-24	Whitetail buck only
All 400, 500, & 600 Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, 588	Nov. 17-20	Nov. 16-19	Nov. 21-24	Buck only except 2 pt. min. in GMUs 433, 478, 558, 636, and 681 and 3 pt. min. in GMU 450 and either sex in GMU 410 and 564

Archery Deer Seasons

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

Early Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
100-118, 121, 124, 215, 233, 300, 316	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
127, 130 133	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
136-154, 160-169, 175-185, 231, 306	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
200, 206, 218, 224, 239, 248-272, 278*, 281-284, 308, 335-340, 352, 356, 364, 371, 372, 405-426, 440, 442, 454-472, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554, 556, 560, 568, 572, 580,	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only <u>Either sex,</u> <u>except buck</u> <u>only in GMU 371</u>

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601, 602, 607, 615,
618, 621, 627**, 633,
638, 642-658, 663,
667, 669, 678

433, 478, 558, 574, 576, 584, 586, 588, 681	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
<u>328, 329, 330</u>			<u>Sept. 1-14</u>	<u>3 pt. min.</u>
((328-))334, 480	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
203, 301, 302, 450	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
172	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
119, 242, 304, 360, 448, 484, 564, 603, 612, 624, 666, 672, 684	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
636	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
660	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
501, 506	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
Deer Areas 010, 040, 060	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
Bow Area 802	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex

*Except closed in that part of GMU 278 (Wahluke) north of O'Sullivan Road and east of Beverly Road.

** Bangor Submarine Base within GMU 627 is open for archers with disabilities by permit from the Navy. For information on this hunt, call Tom Jones at (360) 396-5097. Special Restrictions: Must be U.S. citizen, and hunting is open on weekends only.

Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
103	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Whitetail only, either sex
118, 121, 124	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Whitetail only; either sex
127, 166, 178	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
209, 215, 233, 242, 272, 300, 304, 316, 346, 352, 364	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
558, 584, 588, 636, 681	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min or antlerless

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417, 418, 426, 440, 448, 460, 466, 480, 510, 512, 514, 516, 520, 524, 530, 556, 560, 572, 601, 607, 612, 615, 618, 638, 648, 669, 678	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
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450	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min
Bow Areas	1994 Dates	1995 Dates	1996 Dates	Legal Deer

802	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
820	Dec. 24-Jan. 8, 1995	Dec. 24-Jan. 8, 1996	Dec. 24-Jan. 8, 1997	Either sex

Extended Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
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405, 410, 442, 454, 484, 505, 506, 564, 568, 603, 624, 627*, 642, 660, 663, 666, 667, 672, and Deer Areas 041 and 042	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
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433	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	2 pt. min. or antlerless
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* Submarine Base Bangor within GMU 627 is open for archers with disabilities by permit from the Navy. For information on this hunting opportunity call Tom James at (206) 396-5097. Special restrictions: U.S. citizenship is required by the Navy.

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits except on Private Lands Wildlife Management Area 201.

High Buck Hunt

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
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203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

Early Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
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119, 242, 564, 666	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
506	Oct. 6-12	Oct. 5-11	Oct. 3-9	Buck only
209	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Either sex
302, 368	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Buck only
304, 360, 484, 603, 612, 624, 672	Oct. 1-12	Oct 1-11	Oct. 1-9	Buck only

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Late Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
113	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Whitetail only, either sex
130, 133, 136, 139, 181	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	3 pt. min. or antlerless
304	Nov. 12-20	Nov. 11-19	Nov. 10-18	Buck only
410	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
478	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min. or antlerless
501, 504, 550	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
580	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Buck only
576, 586	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min.
602, 633, 651, 684	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
666	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
<u>Muzzleloader Area</u>				
925	Dec. 1-31	Dec. 1-31	Dec. 1-31	Antlerless only
926	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Either sex

Firearm Restricted Deer Hunts Open To All Deer Hunters

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

GMUs	Weapon Permitted	1994 Dates	1995 Dates	1996 Dates	Legal Deer
410 & 480	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex
564	Archery, Shotgun, Muzzleloader	Nov. 17-Dec. 31	Nov. 16-Dec. 31	Nov. 21-Dec. 31	Either sex
627* ((627*))	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex

Deer Area

062**	Archery, shotgun, muzzleloader			Sept. 1-Dec. 31	Either sex
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*Only that portion of GMU 627 (Kitsap) on Vashon and Maury Islands.

**Restricted Access: For information call Bill Kaling at (360) 396-5353.

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	1995 Open Season	1996 Open Season	Special Restrictions
Archery	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 30-Oct. 11	Sept. ((1-14)) 1-13 Sept. 28-Oct. 9	((2 pt. min.)) either sex ((2 pt. min. or antlerless)) either sex

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Modern Firearm

General	Oct. 15-31	Oct. 14-31	Oct. ((12-31)) <u>12-27</u>	2 pt. min.
((Late Buck	Nov. 17-20	Nov. 16-19	Nov. 21-24	2 pt. min.))
Muzzleloader	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	((Antlerless or)) 2 pt. min.

BLACK BEAR

Bag Limit: Fall General - One (1) black bear.

Tag Sale Deadline: Bear tags must be purchased by midnight of the day preceding modern firearm deer season opener. Actual dates are: Oct. 14, 1994; Oct. 13, 1995; Oct. 11, 1996.

PURSUIT ONLY SEASON

It is lawful to pursue or tree black bears during established pursuit-only seasons, provided any bear pursued or treed is NOT killed or injured. Hunters participating in a pursuit only season for black bear must have a valid hound stamp, and hunting license. A bear tag is not required to pursue black bear during the pursuit only season.

Aug. 1-31, 1994, 1995, and 1996, in GMUs 100-111, GMU 113 outside of Selkirk Grizzly Bear Recovery Zone*, GMUs 118-124 and GMUs 200 and 206.

The following regulations apply to the practice of HUNTING BLACK BEAR WITH BAIT.

Definition of Bait: A bait shall be defined as any substance placed with the intent of attracting bear.

Bait Types: It is unlawful to hunt bear with the aid of any bait other than unprocessed plant and plant parts including fruit, inedible parts of legally obtained food fish, game fish, and game animals; carcasses of legally trapped furbearing animals (hide removed); carcasses of unclassified fish and unclassified wildlife, and parts of domestic livestock carcasses.

Baits may not contain paper, cardboard, plastic, glass, aluminum, tin, steel, or styrofoam, or other packaging materials.

All other baits are illegal.

Placement of Bait: Baits for black bear may not be placed in an area until five days prior to the start of that area's established bear harvest season.

A bait may not be placed within fifty yards of any body of water (lake, pond, reservoir, stream, river, and spring), and not within two hundred yards of any road open to vehicular traffic or publicly maintained trail.

A bait may not be placed within one-half mile of any publicly designated administrative site, campground, picnic area, landfill or dump site, and not within one-quarter mile of any permanent residence or seasonal dwelling (except that private landowners may bait on their property within one-quarter mile of their own residence or seasonal dwelling when such baiting does not violate any of the aforementioned distance requirements with adjacent landholders).

Bait Containers: Bait must be contained within an excavated pit, or within a confine constructed of materials located at the site. Such containment structures might include, but not

be restricted to, log cubbies, rock piles and stumps. Containers may also be used to hold bait, but if used, must be securely fastened (to tree, ground, post, etc.).

Any items used to contain or to fasten bait containment materials such as metal drums, nails, screws, bolts, rope, reinforcing rod, and spikes shall be removed from the area within 48 hours of the close of the bear harvest season. Excavated pits shall be filled and the area returned to pre-baiting condition. Tree stands and materials used to construct and erect tree stands shall be removed within the same 48-hour period (except that tree stands may be left on private property with landowner's permission).

All hunters who hunt bear with bait shall affix their bear tag number at their bear baiting sites in such a manner that it remains conspicuous and legible for the duration of the bear season.

OPEN SEASON

(Bear may be killed.)

Eastern Washington*

Sept. 7-Oct. 31, 1994, Sept. 6-Oct. 31, 1995, Sept. 4-Oct. 31, 1996. except

Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 4-Nov. 10, 1996 in GMUs 145-154, 160-185, except in Walla Walla and Columbia counties, bear season outside of Umatilla National Forest is open to boot hunters only (no hounds or bait may be used to hunt bear).

* Use of hounds and bait to hunt black bear prohibited in that part of GMU 113 within the Selkirk Grizzly Bear Recovery Zone(**).

~~**Selkirk Grizzly Bear Recovery Zone~~): (Pend Oreille County): Defined as beginning at the junction of the Canadian-Washington border and State Route 31 by Boundary Lake; then east along the Canadian border to the Idaho border; then south along the Idaho-Washington border to the ridge top between Bath Creek and Lamb Creek at Section 1, Township 35 North, Range 45 East; then west along said ridge top to USFS Road 310; then west along USFS Road 310 to the peak of Gleason Mountain; then west along USFS Trail 162 to Hungry Mountain; then south and west along the ridge top between Fourth of July Creek and Middle Creek to the mouth of LeClerc Creek; then north along the ridge top between the Pend Oreille River and the West Branch LeClerc Creek (Dry Canyon Ridge) to Sullivan Lake Road; then north and east along Sullivan Lake Road to Sullivan Lake; then north along the east shoreline of Sullivan Lake to Sullivan Lake Road; then north and west along Sullivan Lake Road to State Route 31; then north along State Route 31 to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map.)

Hunters using bait to hunt black bear outside of the Selkirk Grizzly Bear Recovery Zone but within GMUs 105, 108, 111, or 113, are required to be an AHE graduate or to obtain

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a bait hunter education certificate from the Washington department of fish and wildlife.

~~((Draft))~~ North Cascades Grizzly Bear Recovery Zone
~~((D)NCCGBRZ--))~~ (Special Regulations)

Hunting black bear with the use or aid of bait is prohibited in wilderness areas of the North Cascades National Park Complex, and in the following National Forest wilderness areas: Mount Baker, Pasayten, Noisy Diobsud, Glacier Peak, Lake Chelan-Sawtooth, Boulder River, Henry M. Jackson, and Alpine Lakes.

Hunters using bait north of Interstate 90, and west of U.S. Highway 97 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests, and on all lands outside these National Forests within GMUs 215-242, 417, 418, 433, 440, and 448 are required to be an Advanced Hunter Education graduate (AHE), or to obtain a bait hunter education certificate from the Washington Department of Fish and Wildlife.

Western Washington
 Aug. 1-Oct. 31, 1994; Aug. 1-Oct. 31, 1995; Aug. 1-Oct. 31, 1996, EXCEPT Sept. 1-Oct. 31, 1994, Sept. 1-Oct. 31, 1995, and Sept. 1-Oct. 31, 1996, in Bow Area 802 and July 13-Sept. 7 and Sept. 26-Oct. 31 in PLWMA 401. CLOSED in GMUs 485 and 522.

HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684, and Bow Area 802.

TOOTH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper or lower jaw for age determination. Tooth envelopes are available from Department of Fish and Wildlife regional offices.

REPORT CARDS

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Fish and Wildlife within ten days after taking a deer or bear.

AMENDATORY SECTION (Amending Order 94-143, filed 1/10/95, effective 2/10/95)

WAC 232-28-241 1994-95, 1995-96, and 1996-97 Official hunting hours and small game seasons.

1994-95 OFFICIAL HUNTING HOURS FOR MIGRATORY GAME BIRDS*

September 1, 1994 to January 31, 1995

Dates (Inclusive)	West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)	
	A.M. to	P.M.	A.M. to	P.M.
Daylight Savings Time				
Thurs. Sept. 1 - Sun. Sept. 4	6:00	7:45	6:10	8:00
Mon. Sept. 5 - Sun. Sept. 11	6:05	7:35	6:15	7:45
Mon. Sept. 12 - Sun. Sept. 18	6:15	7:20	6:25	7:30
Mon. Sept. 19 - Sun. Sept. 25	6:25	7:10	6:35	7:20
Mon. Sept. 26 - Sun. Oct. 2	6:35	6:55	6:45	7:05
Mon. Oct. 3 - Sun. Oct. 9	6:45	6:40	6:55	6:50
Mon. Oct. 10 - Fri. Oct. 14	6:55	6:25	7:05	6:35
Opening Weekend**	Sat. Oct. 15	7:00	7:10	6:30
	Sun. Oct. 16	7:00	7:10	6:30
Mon. Oct. 17 - Sun. Oct. 23	7:05	6:10	7:15	6:20
Mon. Oct. 24 - Sat. Oct. 29	7:15	6:00	7:25	6:10
Pacific Standard Time				
Sun. Oct. 30	6:20	4:55	6:30	5:00
Mon. Oct. 31 - Sun. Nov. 6	6:25	4:50	6:40	4:55
Mon. Nov. 7 - Sun. Nov. 13	6:35	4:40	6:50	4:45
Mon. Nov. 14 - Sun. Nov. 20	6:45	4:30	7:00	4:40
Mon. Nov. 21 - Sun. Nov. 27	6:55	4:25	7:10	4:30
Mon. Nov. 28 - Sun. Dec. 4	7:05	4:20	7:20	4:25
Mon. Dec. 5 - Sun. Dec. 11	7:15	4:20	7:25	4:25
Mon. Dec. 12 - Sun. Dec. 18	7:20	4:20	7:35	4:25
Mon. Dec. 19 - Sun. Dec. 25	7:25	4:20	7:40	4:25
Mon. Dec. 26 - Sun. Jan. 1	7:25	4:25	7:40	4:30
Mon. Jan. 2 - Sun. Jan. 8	7:25	4:30	7:40	4:40
Mon. Jan. 9 - Sun. Jan. 15	7:25	4:40	7:35	4:45
Mon. Jan. 16 - Sun. Jan. 22	7:20	4:50	7:30	4:55
Mon. Jan. 23 - Sun. Jan. 29	7:15	5:00	7:25	5:10
Mon. Jan. 30 - Tues. Jan. 31	7:10	5:05	7:20	5:15

PERMANENT

Dates (Inclusive)	East Slope Zone (Yakima times)		Far East Zone (Spokane times)	
	A.M. to	P.M.	A.M. to	P.M.
Daylight Savings Time				
Thurs. Sept. 1 - Sun. Sept. 4	5:55	7:40	5:40	7:30
Mon. Sept. 5 - Sun. Sept. 11	6:00	7:30	5:50	7:15
Mon. Sept. 12 - Sun. Sept. 18	6:10	7:15	5:55	7:05
Mon. Sept. 19 - Sun. Sept. 25	6:20	7:00	6:05	6:50
Mon. Sept. 26 - Sun. Oct. 2	6:30	6:45	6:15	6:35
Mon. Oct. 3 - Sun. Oct. 9	6:35	6:30	6:25	6:20
Mon. Oct. 10 - Fri. Oct. 14	6:45	6:20	6:35	6:05
Opening Sat. Oct. 15	6:50	6:15	6:40	6:00
Weekend** Sun. Oct. 16	6:50	6:15	6:40	6:00
Mon. Oct. 17 - Sun. Oct. 23	6:55	6:05	6:45	5:55
Mon. Oct. 24 - Sat. Oct. 29	7:05	5:55	7:55	5:40
Pacific Standard Time				
Sun. Oct. 30	6:10	4:50	6:00	4:35
Mon. Oct. 31 - Sun. Nov. 6	6:15	4:45	6:05	4:30
Mon. Nov. 7 - Sun. Nov. 13	6:25	4:35	6:15	4:20
Mon. Nov. 14 - Sun. Nov. 20	6:35	4:25	6:30	4:10
Mon. Nov. 21 - Sun. Nov. 27	6:45	4:20	6:40	4:05
Mon. Nov. 28 - Sun. Dec. 4	6:55	4:15	6:45	4:00
Mon. Dec. 5 - Sun. Dec. 11	7:00	4:15	6:55	4:00
Mon. Dec. 12 - Sun. Dec. 18	7:10	4:15	7:00	4:00
Mon. Dec. 19 - Sun. Dec. 25	7:15	4:20	7:05	4:00
Mon. Dec. 26 - Sun. Jan. 1	7:15	4:20	7:10	4:05
Mon. Jan. 2 - Sun. Jan. 8	7:15	4:30	7:10	4:15
Mon. Jan. 9 - Sun. Jan. 15	7:15	4:40	7:05	4:20
Mon. Jan. 16 - Sun. Jan. 22	7:10	4:45	7:00	4:30
Mon. Jan. 23 - Sun. Jan. 29	7:00	4:55	6:55	4:40
Mon. Jan. 30 - Tues. Jan. 31	7:00	5:05	6:50	4:50

West Slope Zone: East from I-5 to the Pacific Crest Trail.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the Pacific Crest Trail to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

* Migratory game birds include ducks, geese, coots, snipe, and mourning doves. The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset. For these species, hunters can use the Hunting Hour table for AM time and just add 30 minutes for PM time.

** Opening Day - In Eastern Washington, upland bird, duck, goose, coot, and snipe seasons open at noon. In Western Washington, upland bird, duck, goose, coot, and snipe seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.

- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

PERMANENT

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)
 Sept. 1-30, Nov. 23-Dec. 14, 1994 and Jan. 16-31, 1995;
 Sept. 1-30, Nov. 22-Dec. 14, 1995 and Jan. 16-31, 1996;
 Sept. ((+30)) 4-30, Nov. 27-Dec. 14, 1996 and Jan. 16-31,
 1997; except closed to hound hunting in Walla Walla and
 Columbia counties outside of Umatilla National Forest Sept.
 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; and Sept. ((+)) 4-
 Oct. 11, 1996.

OPEN SEASON

(Bobcat may be killed)
 Oct. 15-31, 1994 and Dec. 15, 1994-Jan. 15, 1995; Oct. 14-
 31, 1995 and Dec. 15, 1995-Jan. 15, 1996; Oct. 12-31, 1996
 and Dec. 15, 1996-Jan. 15, 1997.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)
 Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11,
 1996; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)
 Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996;
 Oct. 12, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals
 with dogs (hounds) during the months of September,
 October, or November in any area open to a center-fire rifle
 deer or elk season EXCEPT for the following areas and dates.
 (This does not permit the hunting of deer or elk with the use
 of hounds.)

Eastern Washington

	<u>1994</u>	<u>1995</u>	<u>1996</u>
GMUs 100-124.	Oct. 5-12	Oct. 4-11	Oct. 2-9
GMUs 127-185.	Nov. 10-17	Nov. 9-16	Nov. 14-21
Yakima County within two (2) miles of the Yakima River below Union Gap.	Oct. 5-Nov. 1	Oct. 14-31	Oct. 12-29
Whitman and Lincoln counties.	Oct. 29- Nov. 13	Oct. 28- Nov. 12	Oct. 26- Nov. 10

Western Washington

Oct. 15-Nov. 20, 1994; Oct. 14-Nov. 19, 1995; Oct. 12-Nov.
 24, 1996; in GMU 405 (west of Highway 9), GMUs 454,
 627, 633, and the Columbia River Floodplain of Clark and
 Cowlitz counties with boundaries described as follows:
Beginning at the Longview/Columbia River Bridge, then
 north and west on Oregon Way (Highway 432) to Tennant
 Way (Highway 432) to Interstate Highway 5, then south on
 I-5 to State Highway 14 to the Skamania County line, then
 south on county line to the Columbia River on state line to
 the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons
 with archery equipment if valid license and tags are in
 possession for deer or elk seasons, respectively. Archers
 may not kill raccoon with use of hounds during early archery
 seasons.

Raccoon may be killed during muzzleloader deer or elk
 seasons with muzzleloader equipment if valid license and
 tags are in possession for deer or elk seasons, respectively.
 Muzzleloaders may not kill raccoon with use of hounds
 during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).
 Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; Sept. ((+)) 4-
 Oct. 11, 1996; except CLOSED to hound hunting in Walla
 Walla and Columbia counties outside of Umatilla National
 Forest.

OPEN SEASON

(Raccoon may be killed)
 Oct. 15, 1994-Jan. 15, 1995; Oct. 14, 1995-Jan. 15, 1996;
 Oct. 12, 1996-Jan. 15, 1997.

Western Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).
 Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11,
 1996; except CLOSED on Long Island within Willapa Nation-
 al Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed).
 Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996;
 Oct. 12, 1996-Mar. 15, 1997; except CLOSED on Long Island
 within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar.
 15, 1996; Oct. 12, 1996-Mar. 15, 1997, except CLOSED
 within the exterior boundaries of the Mount Baker/
 Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot
 National Forests and GMUs 405, 410, and 522.

COYOTE

Coyote may be taken year around EXCEPT that coyote may
 only be killed and/or pursued with hounds during the
 following periods:

Eastern Washington

Sept. 1-Jan. 31, 1994-95; Sept. 1-Jan. 31, 1995-96; Sept.
 ((+)) 4-Jan. 31, 1996-97; except year around in Grant,
 Adams, Benton, and Franklin counties.

Western Washington

Aug. 1-Mar. 15, 1994-95; Aug. 1-Mar. 15, 1995-96; Aug. 1-
 Mar. 15, 1996-97.

PERMANENT

Coyote may not be taken by any means from September 15 to November 30 in the following closed areas: Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1-Dec. 31 during 1994, 1995, and 1996; except CLOSED in GMU 522.

PTARMIGAN

Season closed statewide.

UPLAND BIRDS

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 15-Dec. 31, 1994; Noon Oct. 14-Dec. 31, 1995; Noon Oct. 12-Dec. 31, 1996.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994 - Jan. 15, 1995; Noon Oct. 14, 1995 - Jan. 7, 1996; Noon Oct. 12, 1996 - Jan. 12, 1997.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Yakama Indian Reservation: The 1994-95 Upland Bird Season within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two (2) cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Early season: Sept. 24-30, 1994; Sept. 23-29, 1995; and Sept. 21-27, 1996 for juvenile hunters under 15 and senior hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult.

Oct. 1-Nov. 30, 1994; Sept. 30-Nov. 30, 1995; and Sept. 28-Nov. 30, 1996; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 15, 1994; Oct. 14, 1995; Oct. 12, 1996; except CLOSED in GMU 522.

A Western Washington Upland Bird Permit is required to hunt pheasant, quail, and partridge in western Washington, in addition to a current hunting license. Pheasant kills only must be recorded. Upon taking a pheasant, the holder of a Western Washington Upland Bird Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available for the 1994, 1995, 1996 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Juvenile (under 15): Allows the harvest of six (6) pheasants.
- (3) 2-Day Option: Allows the harvest of four (4) pheasants during two consecutive days.

Every person possessing a Western Washington Upland Bird Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per person is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Upland Bird Permit.

Special Restriction: Steelshot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Hunting is restricted on weekend mornings at Lake Terrell (all units including ARCO and INTELCO), Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) Wildlife Areas. Only hunters with western Washington upland bird permits marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered

weekend days. Only hunters with Western Washington Upland Bird Permits marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters that select the two day option and juvenile hunters 14 years of age or younger may hunt during either weekend day morning. Juvenile hunters must be accompanied by an adult with an appropriately marked upland bird permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

Statewide: April 15-May 15, 1995; April 15-May 15, 1996; [and] April 15-May 15, 1997.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. 22-26, 1996.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. ((22-26)) 27-Dec. 1, 1996. Only hunters that successfully complete the Department of Fish and Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid hunting license and turkey tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per calendar year for 1994. One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year in 1995 and 1996. Subspecies are defined by county of kill.

Eastern Wild Turkey: All of western Washington excluding Skamania and Klickitat counties.

Rio Grande Wild Turkey: All of eastern Washington excluding Klickitat, Ferry, Pend Oreille, and Stevens counties.

Merriam's Wild Turkey: Skamania, Klickitat, Pend Oreille, Ferry and Stevens counties.

Tag Sale Cutoff: To purchase multiple turkey tags, hunters shall send the appropriate tag fee (resident or non-resident) for each additional tag and their original 1995, 1996, or 1997

turkey tag to: Upland Bird Program, Washington Department of Fish and Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091. All multiple tag requests must be received by March 31, each year; a single statewide tag may be purchased at any time.

Hunting Hours: One-half hour before sunrise to one-half hour after sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

Sage and Sharp-tailed Grouse

Season Closed Statewide, 1994, 1995, 1996.

BIRD DOG TRAINING SEASON Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; and Aug. 1, 1996-Mar. 15, 1997, except from Oct. 1-Nov. 30, 1994, Sept. 30-Nov. 30, 1995, and Sept. 28-Nov. 30, 1996, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Six - Scatter Creek Wildlife Area.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

Sept. 1-12, 1994; Sept. 1-12, 1995; Sept. 1-12, 1996.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington-Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to Highway 101 at the Astoria/Megler Bridge, then west on SR 101 to the city of Ilwaco, then west on Gray Drive to Canby Road, then southwest on Canby Road to the north jetty, then southwest on the north jetty to its end, then southeast to the Washington-Oregon state line, then upstream along the Washington/Oregon border to the point of origin.

Steel Shot Requirement: No person shall hunt Canada geese in the open area of the September Canada goose season while using or possessing shotshells loaded with metal other than steel.

BAND-TAILED PIGEON

Closed Season Statewide, 1994, 1995, 1996.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15 1994; Sept. 1-15, 1995; and Sept. 1-15, 1996; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and White-tailed Jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) Black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONSUpland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

Statewide: Sept. 1-15 and Oct. 1-Dec 31, 1994; Sept. 1-15 and Oct. 1-Dec. 31, 1995; Sept. 1-15 and Oct. 1-Dec. 31, 1996.

Rabbit and Hare - Falconry

Daily bag: Ten (10) rabbits or hares per day; straight or mixed bag.

Statewide: Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; Aug. 1, 1996-Mar. 15, 1997, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

AMENDATORY SECTION (Amending Order 94-144, filed 1/10/95, effective 2/10/95)**WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.**ELK SEASONS

Bag Limit: One (1) elk per hunter during the annual (July 1-March 31) hunting season.

Hunting Method: Elk hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Tag Required: Elk hunters must choose one of the four elk hunting areas (Blue Mountains, Yakima, Colockum or Western Washington) to hunt in and buy the appropriate tag for that area.

Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Definition: Visible Antler is defined as a horn-like growth projecting above the hairline.

Spike Bull Restriction GMUs: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 160-185, 302, 314-329, 335-~~(368)~~ 371, and 472.

Branched Antler Restriction GMUs: Bull elk taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points may include eye guards but antler points on the lower half of either main beam must be at least four (4) inches long, measured from tip to nearest edge of beam. All other antler points must be at least one inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: 418, 460, 466, 478, 490, 506, 512, ~~((524,))~~ 530, ~~((556,))~~ 558, 572, 601, ~~((602,))~~ ~~607~~, ~~((636,))~~ 638, 681; and GMUs 157 ~~((and))~~, 485, 524, 556, and 602 by permit only.

Special Permits: Only hunters with elk tags identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Modern Firearm Elk Information

Modern firearm elk hunters have early and late hunts in all elk areas. Those who buy the ~~((B))~~ General tag have the first opportunity to hunt bulls ~~((but))~~. Only those who buy the ~~((C))~~ Permit tag are able to apply for special elk permits.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched modern firearm elk tag as listed below on his/her person.

Hunting Method: May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Modern Firearm Elk Seasons

Legal Elk: Male elk with visible antlers are legal throughout the state except in GMUs 145-154, 160-185, 302, 314-329, 335-368, and 472 spike bull restrictions apply and in branched antler areas branched antler restrictions apply.

Blue Mountains - Open Area: 100 series GMUs; GMUs 127~~((?))~~ and 130~~((?))~~ are permit only for modern firearm hunters; and GMU 157 limited ~~((to))~~ by permit to all hunters

((~~only~~)). GMUs 145-154, 160-185 are spike bull only, except by permit.

366, 368, 371, and 372. GMUs 302, 335-((~~368~~)) 371 are spike bull only, except by permit.

- BA - Blue Mountains Archery Tag
- ((~~BB~~)) BG - Blue Mountains Modern General Bull Tag
- ((~~BC~~)) BP - Blue Mountains Modern Permit Applicant Tag
- BM - Blue Mountains Muzzleloader Tag

- YA - Yakima Archery Tag
- ((~~YB~~)) YG - Yakima Modern General Bull Tag
- ((~~YC~~)) YP - Yakima Modern Permit Applicant Tag
- YM - Yakima Muzzleloader Tag

Colockum - Open Area: Chelan County portion of GMU 302 and GMUs 300, 301, 304, 306, 308, 314, 316, 328, 329, 330 (permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334). GMUs 302, 314-329 are spike bull only, except by permit.

Western Washington - Open Area: All 400, 500, and 600 GMUs except closed in GMU 417, 522, 621, 636 and modern firearm restrictions in portion of GMU 660. GMUs 417 (Bald Mountain) ((~~and~~)), 621 (Olympic) and 636 (Skokomish) are closed to all elk hunting as ((~~a~~)) Conservation Closures. Permit only in GMUs 485, 524, 554, 556, and 602. GMU 472 is spike bull only, except by permit.

- CA - Colockum Archery Tag
- ((~~CB~~)) CG - Colockum Modern General Bull Tag
- ((~~CC~~)) CP - Colockum Modern Permit Applicant Tag
- CM - Colockum Muzzleloader Tag

- WA - Western Washington Archery Tag
- ((~~WB~~)) WG - Western Washington Modern General Bull Tag
- ((~~WC~~)) WP - Western Washington Modern Permit Applicant Tag
- WM - Western Washington Muzzleloader Tag

Yakima - Open Area: Kittitas County portion of GMU 302 and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364,

PERMANENT

	<u>1994</u>	<u>1995</u>	<u>1996</u>
Blue Mountains			
((BB)) <u>BG</u> - Blue Mountains <u>Modern General</u> Bull Elk Tag	Oct. 26-Nov. 6	Oct. 25-Nov. 5	Oct. 30-Nov. 10
((BC)) <u>BP</u> - Blue Mountains <u>Modern</u> Permit Applicant Elk Tag	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10
Colockum			
((CB)) <u>CG</u> - Colockum <u>Modern General</u> Bull Elk Tag	Oct. 26-Nov. 3	Oct. 26-Nov. 3	Oct. 26-Nov. 3
((CC)) <u>CP</u> - Colockum <u>Modern</u> Permit Applicant Elk Tag	Oct. 29-Nov. 3	Oct. 29-Nov. 3	Oct. 29-Nov. 3
Yakima			
((YB)) <u>YG</u> - Yakima <u>Modern General</u> Bull Elk Tag	Nov. 5-15	Nov. 5-15	Nov. 5-15
((YC)) <u>YP</u> - Yakima <u>Modern</u> Permit Applicant Elk Tag	Nov. 8-15	Nov. 8-15	Nov. 8-15
Western Washington			
((WB)) <u>WG</u> - Western Washington <u>Modern General</u> Bull Elk Tag	Nov. 2-13	Nov. 1-13	Nov. 6-17
((WC)) <u>WP</u> - Western Washington <u>Modern</u> Permit Applicant Elk Tag	Nov. 5-13	Nov. 4-13	Nov. 9-17

Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Only archery elk hunters with tags identified in the Special Permits tables may apply for special bull permits. Please see permit table for tag eligibility.

Early Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountains (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
100- (119) 124, 127, (121) 130-142	BA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
145-154, 160- 169, 175, 178, 181-185	BA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike bull only
300, 306, 308, 316, 334 (North of I-90)	CA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
328, 329, 330	CA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
334 (South of I-90), 371, 372	YA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex, <u>except Spike only in GMU 371</u>
335, 336, 340, 352, 356, 364	YA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
405-410, 426- 454, 504, 505, 510, 514, 516, 520, 550, 554, 560, 568, 574, 576, 586, 588, 615, 618, 642- 658, 660, 663, 667, 669, 672, 678	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
460, 466, 478, 490, 512, 530, 558, 572, 601, (607,) 638, 681	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min. or antlerless
472	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike or antlerless
484	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
418	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min.
607	WA	No Season	Sept. 1-14	No Season	3 pt. min.
612	WA	Sept. 1-14	No Season	Sept. 1-14	Either sex
Bow Area 802	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex

Late Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
103, 118, 121, 124, 127, 133	BA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
166, 178	BA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Spike bull only
328	CA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Spike or antlerless

PERMANENT

335, 336, 346, 352	YA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Spike or antlerless
405, 433, 454, 484, 505, 520, 564, 588, 603, 612, 615, 648, 672	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
506, 530, 638, 681*	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
((636	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min.))
Bow Areas					
802	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	YA	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Spike or antlerless
841	WA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex

* Except closed between U.S. Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallcut River.

Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as listed below on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Early Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
172	BM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
302	CM, YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	<u>Spike</u> bull only
314*	CM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
342	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Antlerless only
368	YM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Spike bull only
603	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Bull only
607	WM	Oct. 6-12	No Season	Oct. 3-9	3 pt. min.
612	WM	No Season	Oct. 5-11	No Season	Bull only
460, 506((-636))	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	3 pt. min.
484, 501, 564, 684	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Either sex

Muzzleloader

Area 910	YM	Oct. 1-12	Oct. 1-11	((Oct. 1-9)) Sept. 1-15	Spike bull or antlerless
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* The portion of GMU 314 bordered by the Colockum Pass Road (Road 10), Naneum Ridge Road (Road 9), and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.

Late Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

PERMANENT

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
127, 130, 133, 136, 139	BM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
184	BM	Nov. 23-Dec. 15			Antlerless only
346	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless
484	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
501, 568, 574, 576, 586	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
505	WM	Nov. 15-20	Nov. 14-19	Nov. 19-24	Either sex
504, 550	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Bull only
601	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. bull min.
684	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
Muzzleloader Areas					
910	YM	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Spike bull or antlerless
944	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless

Special Elk Hunts Open to Specified Tag Holders

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

(((Antlerless or))) Either Sex Elk Hunts

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
100, 103, 105, 108, 121, 124 west of SR 395, 133, 136, 139	((BB, BC)) <u>BG, BP</u>	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10	Either sex
178	((BB, BC)) <u>BG, BP</u>	Nov. 5-6			Either sex
((371,)) 372	CM, ((YB)) <u>YG, ((YC))</u> <u>YP, YM</u>	Nov. 5-13	Nov. 5-15	Nov. 5-15	Either sex
564*	WA, WM, ((WB, WC)) <u>WG, WP</u>	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
501, 568, 574, 576, 586, 588	((WB, WC)) <u>WG, WP</u>	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
300, 304, 306, 308, 316 east of Highway 2	((CB, CC)) <u>CG, CP,</u> CM	Dec. 9-18	Dec. 9-17	Dec. 9-16	Either sex
Elk Area 001	Any Elk Tag	Nov. 1-15	Nov. 1-15	Nov. 1-15	Either sex
Elk Area 010	BA, ((BB, BC,)) <u>BG,</u> <u>BP</u> BM**		Oct. 20-Nov. 20	Oct. 20-Nov. 20	Either sex

PERMANENT

- * Archery or Muzzleloader Equipment Only. Modern Firearm elk tag holders may hunt but must use primitive weapons.
- ** Advanced Hunter Education hunters only.

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	Elk Tag	1995 Open Season	1996 Open Season	Special Restrictions
Archery	WA	Sept. 1-14	Sept. ((1-14)) <u>1-13</u>	Spike Bull or Antlerless
((Modern Firearm	WB	Nov. 1-13	Nov. 6-17	Spike Bull Only
	WC	Nov. 4-13	Nov. 9-17	Spike Bull Only
Muzzleloader	WM	Nov. 22-Dec. 5	Nov. 27-Dec. 5	Spike Bull Only))

Report Cards

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Fish and Wildlife within 10 days after taking an elk.

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

AMENDATORY SECTION (Amending WSR 95-11-037, filed 5/10/95, effective 6/10/95)

WAC 232-28-246 ((1995-96)) 1996-97 Deer and elk permit hunting seasons.

((Application Instructions

NOTE: Hunt numbers and GMU numbers are not the same.

A permit gives a hunter additional opportunity but it does not give him/her an extra deer or elk.

To apply for Special Deer Permit: You must have a valid 1995 Washington hunting license and a modern firearm or muzzleloader deer tag. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for Special Hunts for Disabled, Blind or Visually Impaired. You may submit one (only one) special deer permit application for 1995. A permit hunter can take only one deer unless otherwise specified by the permit hunt.

If you were drawn for a Blue Mountains Foothills A or B deer permit in 1994, you may not submit a deer permit application in 1995 or 1996 for the Blue Mountains Foothills A or Blue Mountains Foothills B hunts.

To apply for Special Elk Permit: You must have a valid 1995 Washington hunting license and a valid modern firearm, muzzleloader, or archery elk tag. Each hunter must have the proper tag (identified in the tables) to apply for an elk permit. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for the Special Hunts for Disabled, Blind or Visually Impaired. You may submit one (only one) special permit application for elk. You may not submit an elk permit application if you were drawn for an elk permit during 1993 or 1994. Those hunters drawing a special hunting season elk permit for hunts designated for disabled, blind/visually impaired, and muzzleloader only are exempt from the two-year waiting period. Permit hunters may hunt only with a weapon in compliance with their tag.

~~Application Deadline: To qualify for the drawing all applications must be postmarked no later than March 31, 1995 or received no later than 5:00 p.m. on March 31, 1995 at the Department of Fish and Wildlife headquarters in Olympia or at any of the regional Department of Fish and Wildlife offices.~~

~~Permits will be drawn by random computer selection. There are no refunds or exchanges for deer or elk tags for persons applying for special permits.~~

Special Hunting Season Permits

~~You must have a valid hunting license and tag to apply for any special hunting season set by the Fish and Wildlife Commission. (Special hunting seasons do not include hunts open to all hunters.)~~

SPECIAL DEER PERMIT HUNTING SEASONS

(Open to Permit Holders Only)

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts.

PERMIT QUOTAS

~~((1995)) 1996 Permit quotas are unknown at this time. Permit quotas may be greater or less than permits authorized in ((1994)) 1995 depending on winter survival. Please do not call Department offices for permit quotas. Quotas will be established at the April 20, 1996, Fish and Wildlife Commission meeting.~~

PERMANENT

MODERN FIREARM PERMIT HUNTS (Muzzleloaders may apply.)
Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1001	Curlew	Oct. 7-13	Whitetail, Antlerless Only	GMU 100
1002	Boulder	Oct. 7-13	Whitetail, Antlerless Only	GMU 103
1003	Kelly Hill	Oct. 7-13	Whitetail, Antlerless Only	GMU 105
1004	Douglas	Oct. 7-13	Whitetail, Antlerless Only	GMU 108
1005	Aladdin A	Oct. 7-13	Whitetail, Antlerless Only	GMU 111
1006	Aladdin B	Nov. 22-26	Whitetail, Either Sex	GMU 111
1007	Selkirk	Oct. 7-13	Whitetail, Antlerless Only	GMU 113
1008	Chewelah	Oct. 7-13	Whitetail, Antlerless Only	GMU 118
1009	Boyer A	Oct. 7-13	Whitetail, Antlerless Only	GMU 119
1010	Boyer B	Nov. 22-26	Whitetail, Either Sex	GMU 119
1011	Huckleberry	Oct. 7-13	Whitetail, Antlerless Only	GMU 121
1012	Mt. Spokane	Oct. 7-13	Whitetail, Antlerless Only	GMU 124
1013	Cheney	Oct. 7-13	Antlerless Only	GMU 130
1014	Roosevelt	Oct. 7-13	Antlerless Only	GMU 133
1015	Harrington	Nov. 8-19	Antlerless Only	GMU 136
1016	Steptoe	Nov. 8-19	Antlerless Only	GMU 139
1017	Almota	Nov. 8-19	Antlerless Only	GMU 142
1018	Mayview A	Oct. 1-8	Antlerless Only	GMU 145
1019	Mayview B	Nov. 8-19	Antlerless Only	GMU 145
1020	Starbuck	Nov. 8-19	Antlerless Only	GMU 148
1021	Eureka	Nov. 8-19	Antlerless Only	GMU 151
1022	Blue Creek A	Nov. 8-19	Whitetail, Antlerless Only	GMU 154
1023	Touchet	Nov. 8-19	Whitetail, Antlerless Only	GMU 160
1024	Eekler	Nov. 8-19	Whitetail, Antlerless Only	GMU 161
1025	Marengo A	Nov. 8-19	Whitetail, Antlerless Only	GMU 163
1026	Marengo B	Nov. 8-19	Antlerless Only	GMU 163
1027	Peola	Nov. 8-19	Antlerless Only	GMU 178
1028	Couse	Nov. 8-19	Whitetail, Antlerless Only	GMU 181
1029	Blue Mtns. - Foothills A	Nov. 8-21	Whitetail, 3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1030	Blue Mtns. - Foothills B	Nov. 8-21	Whitetail, 3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1031	East Okanogan	Dec. 6-13	Whitetail, Either Sex	GMUs 200, 206
1032	West Okanogan	Dec. 6-13	Whitetail, Either Sex	GMUs 209, 218, 224, 231, 233
1033	Wanauet A	Oct. 30 - Nov. 5	Antlerless Only	GMU 209
1034	Sinlahekin A	Oct. 30 - Nov. 5	Whitetail, Antlerless Only	GMU 215
1035	Sinlahekin B	Dec. 6-13	Whitetail, Either Sex	GMU 215
1036	Chewuch	Oct. 30 - Nov. 5	Antlerless Only	GMU 218
1037	Pearygin	Oct. 30 - Nov. 5	Antlerless Only	GMU 224
1038	Gardner	Oct. 30 - Nov. 5	Antlerless Only	GMU 231
1039	Pogue	Oct. 30 - Nov. 5	Antlerless Only	GMU 233
1040	Big Bend A	Oct. 16-22	Antlerless Only	GMU 248
1041	Badger	Oct. 16-22	Antlerless Only	GMU 266
1042	Moses Coulee A	Oct. 16-22	Antlerless Only	GMU 269
1043	Beezley	Oct. 16-22	Antlerless Only	GMU 272
1044	Wenatchee A	Nov. 1-15	Antlerless Only	Portion of - GMU 314*

PERMANENT

1045	Guemes Island A	Oct. 14 31	Either Sex	Guemes Island in — GMU 405
1046	Guemes Island B	Nov. 1 21	Either Sex	Guemes Island in — GMU 405
1047	Green River A	Oct. 21 27	Either Sex	GMU 485
1048	Green River B	Oct. 21 27	Antlerless Only	GMU 485
1049	Lincoln	Oct. 21 31	Either Sex	GMU 501
1050	Mossyrock	Oct. 21 31	Either Sex	GMU 505
1051	Willapa Hills	Oct. 21 31	Either Sex	GMU 506
1052	Stormking	Oct. 21 31	Either Sex	GMU 510
1053	Sawtooth	Oct. 21 31	Either Sex	GMU 512
1054	Paekwood	Oct. 21 31	Either Sex	GMU 516
1055	Ryderwood	Oct. 21 31	Either Sex	GMU 530
1056	Coweeman	Oct. 21 31	Either Sex	GMU 550
1057	Lewis River	Oct. 21 31	Either Sex	GMU 560
1058	Siouxon	Oct. 21 31	Either Sex	GMU 572
1059	Hoko	Oct. 21 31	Either Sex	GMU 601
1060	Pyshk	Oct. 21 31	Either Sex	GMU 603
1061	Soleduek	Oct. 21 31	Either Sex	GMU 607
1062	Goodman	Oct. 21 31	Either Sex	GMU 612
1063	Clearwater	Oct. 21 31	Either Sex	GMU 615
1064	Olympic	Oct. 21 31	Either Sex	GMU 621
1065	Coyle	Oct. 21 31	Either Sex	GMU 624
1066	Mason Lake	Oct. 21 31	Either Sex	GMU 633
1067	Skokomish	Oct. 21 31	2 Pt. Min. or Antlerless	GMU 636
1068	Wynoochee	Oct. 21 31	Either Sex	GMU 648
1069	North River	Oct. 21 31	Either Sex	GMU 658
1070	Minot Peak	Oct. 21 31	Either Sex	GMU 660
1071	Capitol Peak	Oct. 21 31	Either Sex	GMU 663
1072	Deschutes	Oct. 21 31	Either Sex	GMU 666
1073	Skookumchuck A	Oct. 21 31	Either Sex	GMU 667
1074	Palix	Oct. 21 31	Either Sex	GMU 669
1075	Fall River	Oct. 21 31	Either Sex	GMU 672
1076	Nemah	Oct. 21 31	Either Sex	GMU 678
1123	Entiat	Nov. 1 12	Antlerless Only	GMU 306, 308))
1001	<u>Curlew</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 100</u>
1002	<u>Boulder</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 103</u>
1003	<u>Kelly Hill</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 105</u>
1004	<u>Douglas</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 108</u>
1005	<u>Aladdin A</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 111</u>
1006	<u>Aladdin B</u>	<u>Nov. 20-24</u>	<u>Whitetail, Either Sex</u>	<u>GMU 111</u>
1007	<u>Selkirk</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 113</u>
1008	<u>Chewelah</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 118</u>
1009	<u>Boyer A</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 119</u>
1010	<u>Boyer B</u>	<u>Nov. 20-24</u>	<u>Whitetail, Either Sex</u>	<u>GMU 119</u>
1011	<u>Huckleberry</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 121</u>
1012	<u>Mt. Spokane</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 124</u>
1013	<u>Mica Peak</u>	<u>Oct. 5-11</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 127</u>
1014	<u>Cheney</u>	<u>Oct. 5-11</u>	<u>Antlerless Only</u>	<u>GMU 130</u>
1015	<u>Roosevelt A</u>	<u>Oct. 5-11</u>	<u>Antlerless Only</u>	<u>GMU 133</u>
1016	<u>Harrington</u>	<u>Nov. 6-17</u>	<u>Antlerless Only</u>	<u>GMU 136</u>
1017	<u>Step toe</u>	<u>Nov. 6-17</u>	<u>Antlerless Only</u>	<u>GMU 139</u>
1018	<u>Almota A</u>	<u>Nov. 6-17</u>	<u>Antlerless Only</u>	<u>GMU 142</u>
1019	<u>Mayview A</u>	<u>Oct. 22-29</u>	<u>Antlerless Only</u>	<u>GMU 145</u>
1020	<u>Mayview B</u>	<u>Nov. 13-24</u>	<u>Antlerless Only</u>	<u>GMU 145</u>
1021	<u>Starbuck A</u>	<u>Nov. 13-24</u>	<u>Antlerless Only</u>	<u>GMU 148</u>
1022	<u>Eureka</u>	<u>Nov. 13-24</u>	<u>Antlerless Only</u>	<u>GMU 151</u>
1023	<u>Blue Creek A</u>	<u>Nov. 13-24</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 154</u>
1024	<u>Touchet</u>	<u>Nov. 13-24</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 160</u>
1025	<u>Eckler</u>	<u>Nov. 13-24</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 161</u>
1026	<u>Marengo A</u>	<u>Nov. 13-24</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 163</u>
1027	<u>Marengo B</u>	<u>Nov. 13-24</u>	<u>Antlerless Only</u>	<u>GMU 163</u>

<u>1028</u>	<u>Peola</u>	<u>Nov. 13-24</u>	<u>Antlerless Only</u>	<u>GMU 178</u>
<u>1029</u>	<u>Couse</u>	<u>Nov. 13-24</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 181</u>
<u>1030</u>	<u>Blue Mtns.</u> <u>Foothills A</u>	<u>Nov. 13-26</u>	<u>Whitetail, 3 Pt. Min. or</u> <u>Antlerless</u>	<u>GMUs 148,</u> <u>151, 154,</u> <u>160, 161,</u> <u>163, 166</u>
<u>1031</u>	<u>Blue Mtns.</u> <u>Foothills B</u>	<u>Nov. 13-26</u>	<u>Whitetail, 3 Pt. Min. or</u> <u>Antlerless</u>	<u>GMUs 145,</u> <u>172, 175,</u> <u>178, 181</u>
<u>1032</u>	<u>East Okanogan</u>	<u>Dec. 4-11</u>	<u>Whitetail, Either Sex</u>	<u>GMUs 200, 206</u>
<u>1033</u>	<u>West Okanogan</u>	<u>Dec. 4-11</u>	<u>Whitetail, Either Sex</u>	<u>GMUs 209, 218,</u> <u>224, 231, 233</u>
<u>1034</u>	<u>Wannacut A</u>	<u>Nov. 4-10</u>	<u>Antlerless Only</u>	<u>GMU 209</u>
<u>1035</u>	<u>Sinlahekin A</u>	<u>Nov. 4-10</u>	<u>Whitetail, Antlerless Only</u>	<u>GMU 215</u>
<u>1036</u>	<u>Sinlahekin B</u>	<u>Dec. 4-11</u>	<u>Whitetail, Either Sex</u>	<u>GMU 215</u>
<u>1037</u>	<u>Chewuch</u>	<u>Nov. 4-10</u>	<u>Antlerless Only</u>	<u>GMU 218</u>
<u>1038</u>	<u>Pearrygin</u>	<u>Nov. 4-10</u>	<u>Antlerless Only</u>	<u>GMU 224</u>
<u>1039</u>	<u>Gardner</u>	<u>Nov. 4-10</u>	<u>Antlerless Only</u>	<u>GMU 231</u>
<u>1040</u>	<u>Pogue</u>	<u>Nov. 4-10</u>	<u>Antlerless Only</u>	<u>GMU 233</u>
<u>1041</u>	<u>Big Bend A</u>	<u>Oct. 14-20</u>	<u>Antlerless Only</u>	<u>GMU 248</u>
<u>1042</u>	<u>Badger</u>	<u>Oct. 14-20</u>	<u>Antlerless Only</u>	<u>GMU 266</u>
<u>1043</u>	<u>Moses Coulee A</u>	<u>Oct. 14-20</u>	<u>Antlerless Only</u>	<u>GMU 269</u>
<u>1044</u>	<u>Beezley</u>	<u>Oct. 14-20</u>	<u>Antlerless Only</u>	<u>GMU 272</u>
<u>1045</u>	<u>Entiat</u>	<u>Nov. 1-12</u>	<u>Antlerless Only</u>	<u>GMUs 306, 308</u>
<u>1046</u>	<u>Desert A</u>	<u>Nov. 1-15</u>	<u>Buck Only</u>	<u>Deer Area 020</u>
<u>1047</u>	<u>Wenatchee A</u>	<u>Nov. 1-15</u>	<u>Antlerless Only</u>	<u>Portion of</u> <u>GMU 314*</u>
<u>1048</u>	<u>Guemes Island A</u>	<u>Oct. 12-31</u>	<u>Either Sex, 2 deer limit</u>	<u>Guemes Island in</u> <u>GMU 405</u>
<u>1049</u>	<u>Guemes Island B</u>	<u>Nov. 1-21</u>	<u>Either Sex, 2 deer limit</u>	<u>Guemes Island in</u> <u>GMU 405</u>
<u>1050</u>	<u>Green River A</u>	<u>Oct. 19-25</u>	<u>Either Sex</u>	<u>GMU 485</u>
<u>1051</u>	<u>Green River B</u>	<u>Oct. 19-25</u>	<u>Antlerless Only</u>	<u>GMU 485</u>
<u>1052</u>	<u>Lincoln</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 501</u>
<u>1053</u>	<u>Mossyrock</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 505</u>
<u>1054</u>	<u>Willapa Hills</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 506</u>
<u>1055</u>	<u>Stormking</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 510</u>
<u>1056</u>	<u>Sawtooth</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 512</u>
<u>1057</u>	<u>Packwood</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 516</u>
<u>1058</u>	<u>Ryderwood</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 530</u>
<u>1059</u>	<u>Coweeman</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 550</u>
<u>1060</u>	<u>Lewis River</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 560</u>
<u>1061</u>	<u>Siouxon</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 572</u>
<u>1062</u>	<u>Hoko</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 601</u>
<u>1063</u>	<u>Pysht</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 603</u>
<u>1064</u>	<u>Soleduck</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 607</u>
<u>1065</u>	<u>Goodman</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 612</u>
<u>1066</u>	<u>Clearwater</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 615</u>
<u>1067</u>	<u>Olympic</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 621</u>
<u>1068</u>	<u>Coyle</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 624</u>
<u>1069</u>	<u>Mason Lake</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 633</u>
<u>1070</u>	<u>Skokomish</u>	<u>Oct. 19-31</u>	<u>2 Pt. Min. or Antlerless</u>	<u>GMU 636</u>
<u>1071</u>	<u>Wynoochee</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 648</u>
<u>1072</u>	<u>North River</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 658</u>
<u>1073</u>	<u>Minot Peak</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 660</u>
<u>1074</u>	<u>Capitol Peak</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 663</u>
<u>1075</u>	<u>Deschutes</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 666</u>
<u>1076</u>	<u>Skookumchuck A</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 667</u>
<u>1077</u>	<u>Palix</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 669</u>
<u>1078</u>	<u>Fall River</u>	<u>Oct. 19-31</u>	<u>Either Sex</u>	<u>GMU 672</u>

PERMANENT

1079 Nemah Oct. 19-31 Either Sex GMU 678

*Successful applicants will be mailed a map of the hunt boundary.

DEER MUZZLELOADER ONLY

~~((Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.))~~

PERMANENT

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
((1077	Blue Creek B	Nov. 22 - Dec. 3	Whitetail, 3 Pt. Min. or Antlerless	GMU 154
1078	Wannacut B	Nov. 11-19	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 209
1079	Chiliwist	Nov. 11-19	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 239
1080	Alta	Nov. 11-19	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 242
1081	Moses Coulee B	Nov. 25 - Dec. 17	Antlerless Only	GMU 269
1082	Manson	Nov. 11-19	Either Sex	GMU 300
1083	Chiwawa	Nov. 11-19	Either Sex	GMU 304
1084	Pilchuck	Dec. 2-6	Antlerless Only	Deer Area 041
1085	Yale	Nov. 22 - Dec. 12))	Either Sex	GMU 554
<u>1080</u>	<u>Blue Creek B</u>	<u>Nov. 27- Dec. 8</u>	<u>Whitetail, 3 Pt. Min. or Antlerless</u>	<u>GMU 154</u>
<u>1081</u>	<u>Wannacut B</u>	<u>Nov. 9-17</u>	<u>Mule Deer, Antlerless Only Whitetail, Either Sex</u>	<u>GMU 209</u>
<u>1082</u>	<u>Chiliwist</u>	<u>Nov. 9-17</u>	<u>Mule Deer, Antlerless Only Whitetail, Either Sex</u>	<u>GMU 239</u>
<u>1083</u>	<u>Alta</u>	<u>Nov. 9-17</u>	<u>Mule Deer, Antlerless Only Whitetail, Either Sex</u>	<u>GMU 242</u>
<u>1084</u>	<u>Moses Coulee B</u>	<u>Nov. 23- Dec. 15</u>	<u>Antlerless Only</u>	<u>GMU 269</u>
<u>1085</u>	<u>Manson</u>	<u>Nov. 9-17</u>	<u>Either Sex</u>	<u>GMU 300</u>
<u>1086</u>	<u>Chiwawa</u>	<u>Nov. 9-17</u>	<u>Either Sex</u>	<u>GMU 304</u>
<u>1087</u>	<u>Pilchuck</u>	<u>Nov. 30- Dec. 4</u>	<u>Antlerless Only</u>	<u>Deer Area 041</u>
<u>1088</u>	<u>Yale</u>	<u>Nov. 20- Dec. 10</u>	<u>Either Sex</u>	<u>GMU 554</u>

YOUTH HUNTER OPPORTUNITY

~~((Applicants must be 16 years old or younger on opening day of the permit season. Juvenile hunters must be accompanied by an adult during the hunt.))~~

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
((1086	Northeast A	Oct. 14-31	Whitetail, Either Sex	GMUs 100-124
1087	Mica, Cheney	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 127, 130
1088	Davenport	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 133, 136
1089	Whitman	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 139, 142
1090	Starbuck B	Oct. 1-8	Antlerless Only	GMU 148
1091	Marengo B	Oct. 1-8	Antlerless Only	GMU 163
1092	Blue Mtns. Foothills C	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1093	Blue Mtns. Foothills D	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1094	Big Bend B	Oct. 14-22	Either Sex	GMU 248
1095	Toutle	Oct. 14-29	Either Sex	GMU 556
1096	Wind River	Oct. 21 - Nov. 5	2 Pt. Min. or Antlerless	GMU 574

1097	Satsop	Oct. 21-31	Either Sex	GMU 651
1098	Skookumchuck B	Oct. 21-31	Either Sex	GMU 667))
1089	Starbuck B	Oct. 1-8	Antlerless Only	GMU 148
1090	Marengo B	Oct. 1-8	Antlerless Only	GMU 163
1091	Blue Mtns. Foothills C	Oct. 12-20	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1092	Blue Mtns. Foothills D	Oct. 12-20	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1093	Big Bend B	Oct. 12-20	Either Sex	GMU 248
1094	Toutle	Oct. 12-20	Either Sex	GMU 556
1095	Wind River	Oct. 19- Nov. 3	2 Pt. Min. or Antlerless	GMU 574
1096	Satsop	Oct. 19-31	Either Sex	GMU 651
1097	Skookumchuck B	Oct. 19-31	Either Sex	GMU 667

DEER ARCHERY ONLY

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Boundary Description</u>
1098	Desert B	Sept. 1-30	Buck Only	Deer Area 020

SENIOR HUNTER OPPORTUNITY

((Applicants must be 65 years of age or older on opening day of the permit season.))

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Boundary Description</u>
((1099	Northeast B	Oct. 14-31	Whitetail, Either Sex	GMUs 100-124
1100	Southeast	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 127-142
1101	Starbuck C	Oct. 1-8	Antlerless Only	GMU 148
1102	Marengo C	Oct. 1-8	Antlerless Only	GMU 163
1103	Blue Mtns. - Foothills E	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1104	Blue Mtns. - Foothills F	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181))
1099	Starbuck C	Oct. 22-29	Antlerless Only	GMU 148
1100	Marengo C	Oct. 22-29	Antlerless Only	GMU 163

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

((Only hunters who have successfully completed the Department of Fish and Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt deer in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.))

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Boundary Description</u>
((1105	Roosevelt A	Nov. 22-26	Whitetail, 3 Pt. Min. or - Antlerless	GMU 133
1106	Almota	Nov. 22-26	Whitetail, 3 Pt. Min. or - Antlerless	GMU 142
1107	Wenatchee	Nov. 15-29	Either Sex	Portion of GMU 314*
1108	Mt. Adams	Oct. 1-12	2 Pt. Min. or Antlerless	Elk Area 059))
1101	Roosevelt B	Nov. 20-24	Whitetail, 3 Pt. Min. or Antlerless	GMU 133
1102	Almota	Nov. 20-24	Whitetail, 3 Pt. Min. or Antlerless	GMU 142
1103	Wenatchee B	Nov. 13-27	Either Sex	Portion of GMU 314*
1104	Mt. Adams	Oct. 1-12	2 Pt. Min. or Antlerless	Elk Area 059

((In addition, other AHE permits are available on Private Lands Wildlife Management hunts.))

*Successful applicants will be mailed a map of the hunt boundary.

~~SPECIAL HUNTS FOR ((DISABLED, BLIND OR VISUALLY IMPAIRED)) PERSONS OF DISABILITY~~

Hunters must purchase a hunting license and modern firearm or muzzleloader deer tag prior to purchase of a special hunting season permit application. Only those hunters with a Washington Disabled Hunter Permit ~~((or Washington Blind or Visually Handicapped Hunter Permit))~~ may apply for these permits.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
((1109	Blue Mtn. Foothills G	Nov. 8-21	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1110	Douglas	Nov. 22-26	Whitetail, Either Sex	GMU 108
1111	Big Bend C	Oct. 19-24	Antlerless Only	GMU 248
1112	Entiat	Nov. 1-15	Antlerless Only	GMU 308
1113	Green River C	Oct. 21-27	Antlerless Only	GMU 485
1114	Margaret	Oct. 14-31	Antlerless Only	GMU 524
1115	Bear River	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 681))
<u>1105</u>	<u>Blue Mtn. Foothills E</u>	<u>Nov. 13-26</u>	<u>3 Pt. Min. or Antlerless</u>	<u>GMUs 148, 151, 154, 160, 161, 163, 166</u>
<u>1106</u>	<u>Douglas</u>	<u>Nov. 20-24</u>	<u>Whitetail, Either Sex</u>	<u>GMU 108</u>
<u>1107</u>	<u>Big Bend C</u>	<u>Oct. 17-22</u>	<u>Antlerless Only</u>	<u>GMU 248</u>
<u>1108</u>	<u>Entiat</u>	<u>Nov. 1-15</u>	<u>Antlerless Only</u>	<u>GMU 308</u>
<u>1109</u>	<u>Green River C</u>	<u>Oct. 19-25</u>	<u>Antlerless Only</u>	<u>GMU 485</u>
<u>1110</u>	<u>Margaret</u>	<u>Oct. 12-31</u>	<u>Antlerless Only</u>	<u>GMU 524</u>
<u>1111</u>	<u>Bear River</u>	<u>Oct. 12-31</u>	<u>2 Pt. Min. or Antlerless</u>	<u>GMU 681</u>

~~((In addition, special permits for disabled, blind or visually handicapped are available on Private Lands Wildlife Management hunts.))~~

DEER PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Wilson Creek Area

Only hunters possessing modern firearm deer tags and meeting the special restrictions noted for each hunt are eligible for permits on PLWMA 201. There will be ~~((approximately 20))~~ 30 hunters (Wilson A below) authorized to participate in a special hunt for which an access fee will be charged. You may apply for buck permits (Wilson A) by contacting the landowner at (509) 345-0121. Other applications for Wilson Creek Area must be made through the normal application process. Access for Hunts C, D, and E are for one day, scheduled by the landowner. There are no access fees for hunts B, C, D, or E, but the landowner or his representative will accompany all deer hunters on these hunts. All hunters must have a valid hunting license, deer tag, and written authorization from the landowner to participate in these hunts. All other hunting regulations apply.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
((*	Wilson A	Oct. 1 - Dec. 31	Buck Only	PLWMA 201
1116	Wilson B	Oct. 1 - Dec. 31	Buck Only, Young Hunters Only**	PLWMA 201
1117	Wilson C	Oct. 1 - Dec. 31	Antlerless Only, Young Hunters Only**	PLWMA 201
1118	Wilson D	Oct. 1 - Dec. 31	Antlerless Only, Disabled or Blind/Visually Handicapped Hunters Only	PLWMA 201
1119	Wilson E	Oct. 1 - Dec. 31	Antlerless Only, AHE Hunters Only))	PLWMA 201
<u>*</u>	<u>Wilson A</u>	<u>Oct. 1 - Dec. 31</u>	<u>Buck Only</u>	<u>PLWMA 201</u>
<u>1112</u>	<u>Wilson B</u>	<u>Oct. 1 - Dec. 31</u>	<u>Buck Only, Youth Hunters Only**</u>	<u>PLWMA 201</u>
<u>1113</u>	<u>Wilson C</u>	<u>Oct. 1 - Dec. 31</u>	<u>Antlerless Only, Youth Hunters Only**</u>	<u>PLWMA 201</u>
<u>1114</u>	<u>Wilson D</u>	<u>Oct. 1 - Dec. 31</u>	<u>Antlerless Only, Persons of Disability Only</u>	<u>PLWMA 201</u>

PERMANENT

<u>1115</u>	<u>Wilson E</u>	<u>Oct. 1- Dec. 31</u>	<u>Antlerless Only, AHE Hunters Only</u>	<u>PLWMA 201</u>
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* No hunt number because hunter must contact landowner, David Stevens, for access.
**Applicants must be 16 years old or younger by opening date of the permit season and must be accompanied by an adult during the hunt.

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1120	Kapowsin North	Dec. 8-12	Antlerless Only, Senior Hunters (Age 65+)	PLWMA 401A North
1121	Kapowsin Central	Dec. 8-12	Antlerless Only	PLWMA 401B Central
1122	Kapowsin South	Dec. 9, 10, 16, 17	Antlerless Only, Young* or Disabled or Blind/ Visually Handicapped Hunters Only)	PLWMA 401C South

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Number</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Boundary Description</u>
<u>1116</u>	<u>Kapowsin North</u>	<u>50</u>	<u>Dec. 13-17</u>	<u>Antlerless Only, Senior Hunters (Age 65+)</u>	<u>PLWMA 401A North</u>
<u>1117</u>	<u>Kapowsin Central</u>	<u>100</u>	<u>Dec. 13-17</u>	<u>Antlerless Only</u>	<u>PLWMA 401B Central</u>
<u>1118</u>	<u>Kapowsin South</u>	<u>100</u>	<u>Dec. 14,15, 21,22</u>	<u>Antlerless Only, Youth or Persons of Disability Only</u>	<u>PLWMA 401C South</u>

~~(**Applicants must be 16 years old or younger by opening date of the permit season and must be accompanied by an adult during the hunt.))~~

CHAMPION BUCK PERMITS

Only hunters possessing a valid deer tag (any 1996 deer tag) are eligible for Champion buck permits. There will be 4 permits for Champion North, 14 permits for Champion Central, and 7 permits for Champion South. Persons interested in these deer permits should contact Champion International, 31716 Camp 1 Road, Orting, WA 98360. The season dates are Nov. 9-24, 1996.

Special Elk Permit Hunting Seasons

(Open to Permit Holders Only)
~~((Hunters must purchase a hunting license and elk tag prior to purchase of a permit application.))~~ Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see Elk Tag Prefix required to apply for each hunt). ~~((Hunters drawing a permit for a hunt after the first of the year can use their 1995 license and tag during the hunt.))~~

MODERN FIREARM PERMIT HUNTS (Muzzleloaders may apply.)

~~((1995 Permit quotas are unknown at this time. Permit quotas may be greater or less than permits authorized in 1994 depending on winter survival. Please do not call department offices for permit quotas. Quotas will be established at the April Fish and Wildlife Commission meeting.))~~

Use the **FOUR DIGIT HUNT NUMBER** on your application.

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Elk Tag Prefix</u>	<u>Boundary Description</u>
(2001	Aladdin	Oct. 28 Nov. 5	Antlerless Only	BC or BM	GMU 111
2002	Selkirk	Oct. 28 Nov. 5	Antlerless Only	BC or BM	GMU 113
2003	Mount Spokane	Oct. 28 Nov. 5	Antlerless Only	BC or BM	GMU 124
2004	Mica, Cheney	Oct. 28 Nov. 5	Antlerless Only	BC or BM	GMUs 127, 130
2005	Blue Creek	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 154
2006	Watershed	Oct. 28 Nov. 5	3 Pt. Min. or Antlerless	BC or BM	GMU 157
2007	Touchet	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 160
2008	Eekler	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 161
2009	Tucannon	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 166
2010	Wenaha A	Oct. 1-10	Any Bull	BC or BM	GMU 169
2011	Wenaha B	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 169

2012	Mountain View [A] [B]	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 172
2013	Couse	Oct. 25 Nov. 5	Any Bull	BC or BM	GMU 181
2014	Joseph/Black Butte	Oct. 25 Nov. 5	Any Bull	BC or BM	GMUs 184, 185
2015	Chelan A	Oct. 15 Nov. 1	Antlerless Only	CC or CM	GMUs 300, 301, 304, 306, 308, 316
2016	Chelan B	Oct. 15 Nov. 1	Any Bull	CC or CM	GMUs 300, 301, 306, 308, 316
2017	Naneum A	Oct. 23 25	Antlerless Only	CC or CM	GMU 328
2018	Naneum B	Oct. 26 Nov. 1	Any Bull	CC or CM	GMU 328
2019	Malaga A	Sept. 1 Oct. 6	Antlerless Only	CC or CM	Elk Area -032
2020	Malaga B	Nov. 2 -Jan. 15, 1996	Antlerless Only	CC or CM	Elk Area 032
2021	Peshastin A	Sept. 1 Oct. 6	Either Sex	CC or CM	Elk Area -033
2022	Peshastin B	Nov. 2 -Jan. 15, 1996	Antlerless Only	CC or CM	Elk Area 033
2023	Quilomene A	Oct. 23 25	Antlerless Only	CC or CM	GMU 329
2024	Quilomene B	Oct. 26 Nov. 1	Any Bull	CC or CM	GMU 329
2025	West Bar A	Oct. 23	Antlerless Only	CC or CM	GMU 330
2026	West Bar B	Oct. 24	Antlerless Only	CC or CM	GMU 330
2027	West Bar C	Oct. 25	Antlerless Only	CC or CM	GMU 330
2028	Swauk	Oct. 25 -Nov. 13	Any Bull	CC or CM	GMU 302, 335
2029	Taneum A	Nov. 1 4	Antlerless Only	YC or YM	GMU 336
2030	Manastash A	Nov. 1 4	Antlerless Only	YC or YM	GMU 340
2031	Shushuskin A	Nov. 23 -Dec. 15	Antlerless Only	YC or YM	Elk Area 031
2032	Umtanum A	Nov. 1 4	Antlerless Only	YC or YM	GMU 342
2033	Peaches Ridge	Oct. 25 -Nov. 13	Any Bull	YC or YM	GMUs 336, 346
2034	Little Naches A	Nov. 1 4	Antlerless Only	YC or YM	GMU 346
2035	Little Naches B	Oct. 1 Nov. 13	Any Bull	YC or YM	GMU 346
2036	Observatory	Nov. 5 13	Any Bull	YC or YM	GMU[s] 340, -342
2037	Goose Prairie A	Oct. 25 -Nov. 13	Any Bull	YC or YM	GMUs 352, 356
2038	Nile	Nov. 1 4	Antlerless Only	YC or YM	GMU 352
2039	Bumping	Nov. 1 4	Antlerless Only	YC or YM	GMU 356
2040	Bethel A	Nov. 1 4	Antlerless Only	YC or YM	GMU 360
2041	Bethel B	Nov. 5 13	Any Bull	YC or YM	GMU 360
2042	Rimrock A	Nov. 1 4	Antlerless Only	YC or YM	GMU 364
2043	Rimrock B	Oct. 25 -Nov. 13	Any Bull	YC or YM	GMU 364
2044	Cowiehe A	Nov. 1 4	Antlerless Only	YC or YM	GMU 368
2045	Cowiehe B	Nov. 5 13	Any Bull	YC or YM	GMU 368
2046	White River A	Nov. 1 13	Any Bull	WC or WM	GMU 472
2047	Green River Cow A	Nov. 11 15	Antlerless Only	WC or WM	GMU 485
2048	Green River Bull	Nov. 11 15	3 Pt. Bull Min. or Antlerless	WC or WM	GMU 485
2049	Green River Spike	Nov. 11 15	Spike or Antlerless	WC or WM	GMU 485
2050	Lincoln	Nov. 14 19	Antlerless Only	WC or WM	GMU 501
2051	Willapa Hills	Nov. 14 19	Antlerless Only	WC or WM	GMU 506
2052	Packwood	Nov. 14 19	Antlerless Only	WC or WM	GMU 516
2053	Margaret Cow	Nov. 14 19	Antlerless Only	WC or WM	GMU 524

2054	Margaret Bull	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 524
2055	Ryderwood	Nov. 14-19	Antlerless Only	WC or WM	GMU 530
2056	Toutle Cow	Nov. 14-19	Antlerless Only	WC or WM	GMU 556
2057	Toutle Bull	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 556
2058	Marble	Nov. 14-19	Antlerless Only	WC or WM	GMU 558
2059	Lewis River	Nov. 14-19	Antlerless Only	WC or WM	GMU 560
2060	Siouxon	Nov. 14-19	Antlerless Only	WC or WM	GMU 572
2061	Diekey Bull A	Oct. 1-13	3 Pt. Bull Min.	WC or WM	GMU 602
2062	Diekey Bull B	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 602
2063	Goodman	Nov. 14-19	Antlerless Only	WC or WM	GMU 612
2064	Matheny	Nov. 14-19	Antlerless Only	WC or WM	GMU 618
2065	Quinault Ridge	Oct. 1-13	3 Pt. Bull Min.	WC or WM	GMU 638
2066	Wynoochee	Nov. 14-19	Antlerless Only	WC or WM	GMU 648
2067	Palix	Nov. 14-19	Antlerless Only	WC or WM	GMU 669
2068	Nemah	Nov. 14-19	Antlerless Only	WC or WM	GMU 678
2069	Backbone A	Nov. 23	Antlerless Only	WC or WM	Elk Area
		Dec. 13			025
2070	Backbone B	Nov. 23	Any Bull	WC or WM	Elk Area
		Dec. 13			025
2071	Curtis	Dec. 20-31	Antlerless Only	WC or WM	Elk Area
					-050
2072	Boistfort A	Jan. 1-15,	Antlerless Only	WC or WM	Elk Area
		-1996			054
2073	East Valley	Jan. 1-15,	Antlerless Only	WC or WM	Elk Area
		-1996			055
2074	Carlton	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area
					-057
2075	West Goat Rocks	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area
					-058
2076	Mt. Adams	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area
					-059
2077	South Willapa	Jan. 1-15,	Antlerless Only	WC or WM	Elk Area
		-1996			067))
<u>2001</u>	<u>Aladdin</u>	<u>Nov. 2-10</u>	<u>Antlerless Only</u>	<u>BP or BM</u>	<u>GMU 111</u>
<u>2002</u>	<u>Selkirk</u>	<u>Nov. 2-10</u>	<u>Antlerless Only</u>	<u>BP or BM</u>	<u>GMU 113</u>
<u>2003</u>	<u>Mount Spokane</u>	<u>Nov. 2-10</u>	<u>Antlerless Only</u>	<u>BP or BM</u>	<u>GMU 124</u>
<u>2004</u>	<u>Mica, Cheney</u>	<u>Oct. 12-Nov. 10</u>	<u>Antlerless Only</u>	<u>BP or BM</u>	<u>GMUs 127,</u>
					<u>130</u>
<u>2005</u>	<u>Blue Creek</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 154</u>
<u>2006</u>	<u>Watershed</u>	<u>Nov. 2-10</u>	<u>3 Pt. Min. or</u>	<u>BP or BM</u>	<u>GMU 157</u>
			<u>Antlerless</u>		
<u>2007</u>	<u>Touchet</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 160</u>
<u>2008</u>	<u>Eckler</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 161</u>
<u>2009</u>	<u>Tucannon</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 166</u>
<u>2010</u>	<u>Wenaha A</u>	<u>Oct. 1-10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 169</u>
<u>2011</u>	<u>Wenaha B</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 169</u>
<u>2012</u>	<u>Mountain View A</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 172</u>
<u>2013</u>	<u>Peola A</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMU 178</u>
<u>2014</u>	<u>Peola B</u>	<u>Nov. 2-10</u>	<u>Antlerless Only</u>	<u>BP or BM</u>	<u>GMU 178</u>
<u>2015</u>	<u>Joseph/Black</u>	<u>Oct. 30-Nov. 10</u>	<u>Any Bull</u>	<u>BP or BM</u>	<u>GMUs 184,</u>
	<u>Butte</u>				<u>185</u>
<u>2016</u>	<u>Chelan A</u>	<u>Oct. 15-Nov. 1</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>GMUs 300,</u>
					<u>301, 304,</u>
					<u>306, 308,</u>
					<u>316</u>
<u>2017</u>	<u>Chelan B</u>	<u>Oct. 15-Nov. 1</u>	<u>Any Bull</u>	<u>CP or CM</u>	<u>GMUs 300,</u>
					<u>301, 304,</u>
					<u>306, 308,</u>
					<u>316</u>
<u>2018</u>	<u>Naneum A</u>	<u>Oct. 23-25</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>GMU 328</u>
<u>2019</u>	<u>Naneum B</u>	<u>Oct. 26-Nov. 1</u>	<u>Any Bull</u>	<u>CP or CM</u>	<u>GMU 328</u>
<u>2020</u>	<u>Malaga A</u>	<u>Sept. 1-Oct. 6</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>Elk Area</u>

PERMANENT

PERMANENT

<u>2021</u>	<u>Malaga B</u>	<u>Nov. 2- Jan. 15, 1997</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>032 Elk Area</u>
<u>2022</u>	<u>Peshastin A</u>	<u>Sept. 1-Oct. 6</u>	<u>Either Sex</u>	<u>CP or CM</u>	<u>032 Elk Area</u>
<u>2023</u>	<u>Peshastin B</u>	<u>Nov. 2- Jan. 15, 1997</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>033 Elk Area</u>
<u>2024</u>	<u>Brushy</u>	<u>Sept. 21-23</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>033 Elk Area</u>
<u>2025</u>	<u>Quilomene A</u>	<u>Oct. 23-25</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>034 GMU 329</u>
<u>2026</u>	<u>Quilomene B</u>	<u>Oct. 26-Nov. 1</u>	<u>Any Bull</u>	<u>CP or CM</u>	<u>GMU 329</u>
<u>2027</u>	<u>West Bar A</u>	<u>Oct. 23</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>GMU 330</u>
<u>2028</u>	<u>West Bar B</u>	<u>Oct. 24</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>GMU 330</u>
<u>2029</u>	<u>West Bar C</u>	<u>Oct. 25</u>	<u>Antlerless Only</u>	<u>CP or CM</u>	<u>GMU 330</u>
<u>2030</u>	<u>Swauk</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>CP or CM</u>	<u>GMU 302, 335</u>
<u>2031</u>	<u>Taneum A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 336</u>
<u>2032</u>	<u>Manastash A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 340</u>
<u>2033</u>	<u>Shushuskin A</u>	<u>Nov. 23- Dec. 15</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>Elk Area 031</u>
<u>2034</u>	<u>Umtanum A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 342</u>
<u>2035</u>	<u>Peaches Ridge</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMUs 336, 346</u>
<u>2036</u>	<u>Little Naches A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 346</u>
<u>2037</u>	<u>Little Naches B</u>	<u>Oct. 1-Nov. 13</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMU 346</u>
<u>2038</u>	<u>Observatory</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMUs 340, 342</u>
<u>2039</u>	<u>Goose Prairie A</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMUs 352, 356</u>
<u>2040</u>	<u>Nile</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 352</u>
<u>2041</u>	<u>Bumping</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 356</u>
<u>2042</u>	<u>Bethel A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 360</u>
<u>2043</u>	<u>Bethel B</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMU 360</u>
<u>2044</u>	<u>Rimrock A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 364</u>
<u>2045</u>	<u>Rimrock B</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMU 364</u>
<u>2046</u>	<u>Cowiche A</u>	<u>Nov. 1-4</u>	<u>Antlerless Only</u>	<u>YP or YM</u>	<u>GMU 368</u>
<u>2047</u>	<u>Cowiche B</u>	<u>Oct. 25- Nov. 15</u>	<u>Any Bull</u>	<u>YP or YM</u>	<u>GMU 368</u>
<u>2048</u>	<u>White River A</u>	<u>Nov. 6-17</u>	<u>Any Bull</u>	<u>WP or WM</u>	<u>GMU 472</u>
<u>2049</u>	<u>Green River Cow A</u>	<u>Nov. 9-13</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 485</u>
<u>2050</u>	<u>Green River Bull</u>	<u>Nov. 9-13</u>	<u>3 Pt. Bull Min. or Antlerless</u>	<u>WP or WM</u>	<u>GMU 485</u>
<u>2051</u>	<u>Green River Spike</u>	<u>Nov. 9-13</u>	<u>Spike or Antlerless</u>	<u>WP or WM</u>	<u>GMU 485</u>
<u>2052</u>	<u>Lincoln</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 501</u>
<u>2053</u>	<u>Willapa Hills</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 506</u>
<u>2054</u>	<u>Packwood</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 516</u>
<u>2055</u>	<u>Margaret Cow</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 524</u>
<u>2056</u>	<u>Margaret Bull</u>	<u>Nov. 6-17</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>GMU 524</u>
<u>2057</u>	<u>Ryderwood</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 530</u>
<u>2058</u>	<u>Toutle Cow</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 556</u>
<u>2059</u>	<u>Toutle Bull</u>	<u>Nov. 6-17</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>GMU 556</u>
<u>2060</u>	<u>Marble</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 558</u>
<u>2061</u>	<u>Lewis River</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 560</u>
<u>2062</u>	<u>Siouxon</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 572</u>
<u>2063</u>	<u>Dickey Bull A</u>	<u>Oct. 1-11</u>	<u>3-Pt. Bull Min.</u>	<u>WP or WM</u>	<u>GMU 602</u>
<u>2064</u>	<u>Dickey Bull B</u>	<u>Nov. 6-17</u>	<u>3-Pt. Bull Min.</u>	<u>WP or WM</u>	<u>GMU 602</u>
<u>2065</u>	<u>Goodman</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 612</u>
<u>2066</u>	<u>Matheny</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 618</u>

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<u>2067</u>	<u>Quinault Ridge</u>	<u>Oct. 1-11</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>GMU 638</u>
<u>2068</u>	<u>Wynoochee</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 648</u>
<u>2069</u>	<u>Minot Peak</u>	<u>Oct. 3-9</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 660</u>
<u>2070</u>	<u>Skookumchuck</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 667</u>
<u>2071</u>	<u>Palix</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 669</u>
<u>2072</u>	<u>Nemah</u>	<u>Nov. 18-24</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>GMU 678</u>
<u>2073</u>	<u>Backbone A</u>	<u>Nov. 20-</u> <u>Dec. 11</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>025</u>
<u>2074</u>	<u>Backbone B</u>	<u>Nov. 20-</u> <u>Dec. 11</u>	<u>Any Bull</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>025</u>
<u>2075</u>	<u>Curtis</u>	<u>Dec. 20-31</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>050</u>
<u>2076</u>	<u>Boistfort A</u>	<u>Jan. 1-15,</u> <u>1997</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>054</u>
<u>2077</u>	<u>East Valley</u>	<u>Jan. 1-15,</u> <u>1997</u>	<u>Antlerless Only</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>055</u>
<u>2078</u>	<u>Carlton</u>	<u>Oct. 1-11</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>057</u>
<u>2079</u>	<u>West Goat Rocks</u>	<u>Oct. 1-11</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>058</u>
<u>2080</u>	<u>Mt. Adams</u>	<u>Oct. 1-11</u>	<u>3 Pt. Bull Min.</u>	<u>WP or WM</u>	<u>Elk Area</u> <u>059</u>

((*Outside of Umatilla National Forest.))

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

~~((Only hunters who have successfully completed the Department of Fish and Wildlife's Advanced Hunter Education (AHE) Program will be eligible to hunt elk in these seasons. A certification card will be issued to all AHE graduates and must be in possession while hunting during these seasons.))~~ Hunters with any elk tag are eligible to apply for these hunts.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
2078	Shushuskin B	Dec. 16-30	Antlerless Only	Elk Area 031
2079	Margaret	Oct. 1-12	3 Pt. Min. or Antlerless	GMU 524
2080	Skookumchuck	Oct. 7-12	Either Sex	GMU 667
2081	South Bank A	Sept. 16-20	Antlerless Only	Elk Area 062
2082	South Bank B	Sept. 23-27	Antlerless Only	Elk Area 062
2083	South Bank C	Dec. 16-20	Antlerless Only	Elk Area 062
2084	South Bank D	Jan. 6-10, 1996	Antlerless Only	Elk Area 062
2085	South Bank E	Jan. 20-24, 1996	Antlerless Only	Elk Area 062))
<u>2081</u>	<u>Shushuskin B</u>	<u>Dec. 16-30</u>	<u>Antlerless Only</u>	<u>Elk Area 031</u>
<u>2082</u>	<u>Margaret</u>	<u>Oct. 1-12</u>	<u>3 Pt. Min. or Antlerless</u>	<u>GMU 524</u>
<u>2083</u>	<u>Skookumchuck</u>	<u>Oct. 5-10</u>	<u>Either Sex</u>	<u>GMU 667</u>
<u>2084</u>	<u>South Bank A</u>	<u>Jan. 6-10, 1997</u>	<u>Antlerless Only</u>	<u>Elk Area 062</u>
<u>2085</u>	<u>South Bank B</u>	<u>Jan. 20-24, 1997</u>	<u>Antlerless Only</u>	<u>Elk Area 062</u>

ARCHERY ONLY

Hunters must purchase a hunting license and archery elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2086	Blue Mountains West	Sept. 1-14	Any Bull	BA	GMUs 154, 160, 161, 166, 169
2087	Blue Mountains East	Sept. 1-14	Any Bull	BA	GMUs 178, 181, 184, 185
2088	Colockum	Sept. 1-14	Either Sex	CA	GMUs 328, 329
2089	Robinson	Sept. 1-14	Either Sex	YA	GMUs 336, 340
2090	Taneum B	Nov. 23-Dec. 8	Either Sex	YA	GMU 336
2091	Goose Prairie B	Sept. 1-14	Either Sex	YA	GMUs 352, 356
2092	Divide	Nov. 23-Dec. 8	Either Sex	YA	Bow Areas 806, 807
2093	Cottonwood	Sept. 1-14	Either Sex	YA	GMUs 364, 366, 368
2094	White River B	Sept. 1-14	Either Sex	WA	GMU 472

PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Champion's Kapowsin Tree Farm

Champion Application Bull Permits

Only hunters possessing a valid elk tag (any ~~((1995))~~ 1996 elk tag) and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. There will be ~~((approximately one to seven))~~ four hunters authorized to hunt branched bulls Sept. ~~((16-27))~~ 14-25. ~~((Applicants for Branched Bull permits must pay a nonrefundable access fee of 50 to 100 dollars. (To be determined at a later date.) Individuals not drawn for a special access permit will receive a coupon good for one regular three day access permit.))~~

Persons interested in applying for a Champion draw Branched Bull permit should inquire at: Champion International, 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at (206) 879-4200.

Champion Branched Bull Permits (application through WDFW)

((Hunt No.	Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2095	Kapowsin Bull A	*	Any Bull	WA, WC, WM	PLWMA 401A
2096	Kapowsin Bull B	*	Any Bull	WA, WC, [WN] [WM]	PLWMA 401B, 401C))

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Number</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Elk Tag Prefix</u>	<u>Boundary Description</u>
<u>2095</u>	<u>Kapowsin Bull A</u>	<u>2</u>	<u>*</u>	<u>Any Bull</u>	<u>WA, WP, WM</u>	<u>PLWMA 401A</u>
<u>2096</u>	<u>Kapowsin Bull B</u>	<u>1</u>	<u>*</u>	<u>Any Bull</u>	<u>WA, WP, WM</u>	<u>PLWMA 401B, 401C</u>
<u>2097</u>	<u>Kapowsin Bull C</u>	<u>1</u>	<u>*</u>	<u>Any Bull</u>	<u>WA, WP, WM</u>	<u>PLWMA 401C</u>

*Permit season for archery tag holders Sept. 1-~~((14))~~ 13; modern firearm Nov. ~~((1-13))~~ 9-17; and Muzzleloader ~~((Nov. 22-Dec. 5))~~ Nov. 21-Dec. 1.

Champion Spike Bull Permits

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Number</u>	<u>Permit Season</u>	<u>Elk Tag Prefix</u>	<u>Boundary Description</u>
<u>2098</u>	<u>Kapowsin Spike D</u>	<u>1</u>	<u>Nov. 9-17</u>	<u>WG, WP</u>	<u>PLWMA 401B</u>
<u>2099</u>	<u>Kapowsin Spike E</u>	<u>1</u>	<u>Nov. 9-17</u>	<u>WG, WP</u>	<u>PLWMA 401C</u>
<u>2100</u>	<u>Kapowsin Spike F</u>	<u>1</u>	<u>Nov. 21-Dec. 1</u>	<u>WM</u>	<u>PLWMA 401B</u>

PERMANENT

2101 Kapowsin Spike G 1 Nov. 21-Dec. 1 WM PLWMA. 401C

Muzzleloader Elk Permits

Hunters must purchase a hunting license and Western Washington Muzzleloader Elk Tag prior to purchase of a special hunting season permit application for these hunts.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
2097	Kapowsin North	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401A
2098	Kapowsin Central	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401B
2099	Kapowsin South	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401C

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Number</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Boundary Description</u>
<u>2102</u>	<u>Kapowsin North</u>	<u>10</u>	<u>Nov. 20-Dec. 4</u>	<u>Antlerless Only</u>	<u>PLWMA 401A</u>
<u>2103</u>	<u>Kapowsin Central</u>	<u>5</u>	<u>Nov. 20-Dec. 4</u>	<u>Antlerless Only</u>	<u>PLWMA 401B</u>
<u>2104</u>	<u>Kapowsin South</u>	<u>5</u>	<u>Nov. 20-Dec. 4</u>	<u>Antlerless Only</u>	<u>PLWMA 401C</u>

SPECIAL HUNTS FOR ((DISABLED, BLIND OR VISUALLY IMPAIRED)) PERSONS OF DISABILITY

Hunters must purchase a hunting license and modern firearm or muzzleloader elk tag prior to purchase of a special hunting season permit application. Note elk tag required. Only those hunters with a Washington Disabled Hunter Permit ((~~or a Washington Blind or Visually Handicapped Hunter Permit~~)) may apply.

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Elk Tag Prefix</u>	<u>Boundary Description</u>
3001	<u>Little Naches ((D)) C</u>	Oct. 1-((13)) <u>11</u>	Antlerless Only	((YC)) <u>YP</u> or <u>YM</u>	GMU 346
3002	Quilomene C	Nov. 1-13	Antlerless Only	((CE)) <u>CP</u> or <u>CM</u>	GMU 329
3003	Manastash B	Nov. 1-13	Antlerless Only	((YC)) <u>YP</u> or <u>YM</u>	GMU 340
3004	Green River Cow B	Nov. ((11-15)) <u>9-13</u>	Antlerless Only	((WE)) <u>WP</u> or <u>WM</u>	GMU 485
3005	Centralia Mine A	Nov. ((18-19)) <u>16-17</u>	Antlerless Only	Any Elk Tag	Portion of GMU 667*
((3006	Centralia Mine B	Nov. 25-26	Antlerless Only	Any Elk Tag	Portion of GMU 667*
3007	Centralia Mine C	Dec. 2-3	Either Sex	Any Elk Tag	Portion of GMU 667*)
<u>3006</u>	<u>Centralia Mine B</u>	<u>Nov. 30-Dec. 1</u>	<u>Either Sex</u>	<u>Any Elk Tag</u>	<u>Portion of GMU 667*</u>
<u>3007</u>	<u>South Bank C</u>	<u>Dec. 16-20</u>	<u>Antlerless Only</u>	<u>Any Elk Tag</u>	<u>Elk Area 062</u>

*Successful applicants will be mailed a map of the hunt boundary.

MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

<u>Hunt No.</u>	<u>Hunt Name</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Elk Tag Prefix</u>	<u>Boundary Description</u>
((4001	Mountain View B	Oct. 5-11	Any Bull	BM	GMU 172
4002	Mission	Oct. 5-11	Any Bull	CM	GMU 314
4003	Cle Elum A	Oct. 1-12	Either Sex	YM	ML Area 910
4004	Cle Elum B	Nov. 16-Dec. 8	Either Sex	YM	ML Area 910
4005	Umtanum B	Oct. 8-12	Either Sex	YM	GMU 342
4006	Cowiehe C	Oct. 8-12	Either Sex	YM	GMU 368
4007	Stella	Nov. 22-Dec. 12	Either Sex	WM	GMU 504
4008	Boistfort B	Jan. 16-31, 1996	Antlerless Only	WM	Elk Area 054

4009	Yale	Nov. 22 -Dec. 12	Either Sex	WM	GMU 554
4010	Toledo	Jan. 2-16, -1996	Antlerless Only	WM	Elk Area 029
4011	Chinook	Jan. 16 Feb. 15, 1996	Antlerless Only	WM	Elk Area 069
4012	North River	Nov. 18 -Dec. 6	Antlerless Only	WM	GMU 658
4013	Elwha	Dec. 15 -Jan. 15, 1996	Antlerless Only	WM	ML Area 962
4014	South Elma	Oct. 1-13	Antlerless Only	WM	Elk Area 063))
<u>4001</u>	<u>Blue Creek</u>	<u>Dec. 1- Jan. 31, 1997</u>	<u>Antlerless Only</u>	<u>BM</u>	<u>GMU 154</u>
<u>4002</u>	<u>Mountain View B</u>	<u>Oct. 3-9</u>	<u>Any Bull</u>	<u>BM</u>	<u>GMU 172</u>
<u>4003</u>	<u>Mission</u>	<u>Oct. 3-9</u>	<u>Any Bull</u>	<u>CM</u>	<u>GMU 314</u>
<u>4004</u>	<u>Cle Elum A</u>	<u>Sept. 1-30</u>	<u>Either Sex</u>	<u>YM</u>	<u>ML Area 910</u>
<u>4005</u>	<u>Cle Elum B</u>	<u>Nov. 16- Dec. 8</u>	<u>Either Sex</u>	<u>YM</u>	<u>ML Area 910</u>
<u>4006</u>	<u>Umtanum B</u>	<u>Oct. 3-9</u>	<u>Either Sex</u>	<u>YM</u>	<u>GMU 342</u>
<u>4007</u>	<u>Cowiche C</u>	<u>Oct. 3-9</u>	<u>Either Sex</u>	<u>YM</u>	<u>GMU 368</u>
<u>4008</u>	<u>Stella</u>	<u>Nov. 22- Dec. 12</u>	<u>Either Sex</u>	<u>WM</u>	<u>GMU 504</u>
<u>4009</u>	<u>Boistfort B</u>	<u>Jan. 16- 31, 1997</u>	<u>Antlerless Only</u>	<u>WM</u>	<u>Elk Area 054</u>
<u>4010</u>	<u>Yale</u>	<u>Nov. 22- Dec. 12</u>	<u>Either Sex</u>	<u>WM</u>	<u>GMU 554</u>
<u>4011</u>	<u>Toledo</u>	<u>Jan. 2-16, 1997</u>	<u>Antlerless Only</u>	<u>WM</u>	<u>Elk Area 029</u>
<u>4012</u>	<u>North River</u>	<u>Nov. 18- Dec. 6</u>	<u>Antlerless Only</u>	<u>WM</u>	<u>GMU 658</u>
<u>4013</u>	<u>Elwha</u>	<u>Dec. 15- Jan. 15, 1997</u>	<u>Antlerless Only</u>	<u>WM</u>	<u>ML Area 962</u>

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

AMENDATORY SECTION (Amending WSR 95-11-036, filed 5/10/95, effective 6/10/95)

WAC 232-28-248 1995-96 Special closures and firearm restriction areas.

SPECIAL CLOSURES

HUNTING PROHIBITED AREAS

IT IS UNLAWFUL TO HUNT WILD ANIMALS (INCLUDING WILD BIRDS) IN THE FOLLOWING AREAS:

- 1 Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31, 1995. This closure is south of a boundary

beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 to the intersection with Road 2.0 in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.

The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons during September through December.

2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds EXCEPT during the period Aug. 1-Sept. 30, ((1995)) 1996. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.

3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunts, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
5. McNeil Island: McNeil Island (part of GMU 480) is closed to the hunting of all wild animals (including wild birds) year around.
6. As posted on Bailey Youth Ranch, Franklin County, hunting is closed on Mondays, Tuesdays, Thursdays, and Fridays.
7. As posted, hunting is closed on Department owned land on the Sunnyside Wildlife Area in Yakima County.

BIG GAME CLOSURES

1. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all ~~(big game)~~ deer and elk hunting to protect the Columbian Whitetail Deer.
2. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
3. Willapa National Wildlife Refuge: Except for Bow Area No. 802 (Long Island), Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles.
5. Colockum elk hunting restrictions: No entry in GMU 330 (West Bar) except permit holders, October 23-25,

~~((1995))~~ 1996. Closed to entry (no trespassing) October 26-November 7, ~~((1995))~~ 1996.

6. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.
7. Baleville: Closed to hunting of all big game animals on those lands between State Highway 105 and the Willapa River west of Raymond.

UPLAND BIRD CLOSURES

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

1. From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)
2. Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.

HORSE RESTRICTIONS

Colockum horse restrictions: GMU 330 (West Bar)—It is unlawful to ride horses, mules, or other livestock during any open elk season in GMU 330 PROVIDED, however, that livestock may be used for transporting camp gear and elk carcasses. GMU 329 (Quilomene)—It is unlawful to allow a horse to enter the Brushy and Cape Horn agricultural fields prior to 9 a.m. from October 23-November 3, ~~((1995))~~ 1996.

HUNTING FIREARM RESTRICTION AREAS

In firearm restriction areas, handguns, centerfire and rimfire rifles are not legal for hunting except as provided below. Hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 484 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders meeting the equipment restrictions or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

PERMANENT

COUNTY	AREA	King	The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands.
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.		
Clark	GMU 564 (Battleground)		
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)		The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)
Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.		
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning. The South Elma restriction applies only during elk seasons: (South Bank) - That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on South Bank Road to the Delezene Road; then south on the Delezene Road to the K Line Road to the A Line Road; then south on the A Line Road to the T Line Road; then south on the T Line Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.	Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
		Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
		Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
		Pacific	GMU 684 (Long Beach) west of Sand Ridge Road.
		Pierce	GMU 480 (Anderson and Ketron islands) limited to archery, shotgun, and muzzleloader shotgun. McNeil Island closed to hunting. See GMU 484 restriction area outlined for King County.
		Snohomish	GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
		Skagit	West of Highway 9.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.	Thurston	Guemes Island and March Point north of State Highway 20.
Jefferson	Indian and Marrowstone islands.		GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.

Whatcom Area west of I-5 and north of Bellingham city limits including Point Roberts.

AMENDATORY SECTION (Amending Order 94-151, filed 1/10/95, effective 2/10/95)

WAC 232-28-249 ((1995-96)) 1996-97 Special species hunting seasons and regulations.

~~((PERMIT APPLICATION INSTRUCTIONS~~

~~You must have a valid 1995 Washington hunting license to apply for any special hunting season permit.~~

~~Application Deadline: Applications must be postmarked no later than March 31, 1995, or received not later than 5:00 p.m., March 31, 1995, at the Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, or any Department of Fish and Wildlife regional office.~~

~~Computer Drawing: Drawings for goat, bighorn sheep, moose, and cougar will be done by computer selection. All applicants will be notified by May 31, 1995.~~

~~Disqualification: Anyone who submits more than one application for each species will be disqualified for drawings for that species.~~

~~Incomplete Applications: To be eligible for the permit drawing, applications must contain hunt number and hunt name, date of birth, and hunting license number. Applicant's complete name and address including zip code must be included.~~

~~Permit Hunting Report: A hunter questionnaire report will be sent to each permittee. This questionnaire must be returned to the Department of Fish and Wildlife within ten days after the close of the hunting season.))~~

~~PERMIT QUOTAS: ((1995)) 1996 Permit quotas are unknown at this time. Permit quotas for ((1995)) 1996 may be greater or less than last year depending on winter survival. ((Please do not call Department offices for permit quotas; they will be established at the April Commission meeting.))~~

MOOSE

Permit Season: Oct. 1 to Nov. 30, ((1995)) 1996, both dates inclusive.

Who May Apply: Anyone with a valid ((1995)) 1996 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

Bag Limit: One moose of either sex.

Moose Unit 1
GMU 113

Moose Unit 2
GMU 124

Moose Unit 3
GMU 118

Moose Unit 4
GMU 119

Moose Unit 5

GMU 111

MOUNTAIN SHEEP (BIGHORN)

Permit Seasons: Separate seasons are indicated for each bighorn sheep hunt.

Who May Apply: Anyone with a valid ((1995)) 1996 Washington hunting license; EXCEPT those who drew a bighorn permit ((during 1990, 1991, 1992, 1993, or 1994, or have been successful in taking a bighorn)) previously in Washington State.

Bag Limit For Permit Holders: One bighorn ram.

Any Legal Weapon

Sheep Unit 2

Vulcan Mountain

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 3

Tucannon River

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 5

Umtanum

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 7

Clemon Mountain

Permit Season: Sept. 15-Oct. 11, both dates inclusive.

Sheep Unit 8

Mountainview

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 9

Blackbutte

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 10

Mt. Hull

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

Sheep Unit 11

Wenaha Wilderness

Permit Season: Sept. 15-Oct. ((43)) 11, both dates inclusive.

MOUNTAIN GOAT:

Permit Season: Sept. ((46)) 14-Oct. 31, ((1995)) 1996, both dates inclusive, in all goat hunts.

Who May Apply: Anyone with a valid ((1995)) 1996 Washington hunting license((; EXCEPT those who drew goat permits in 1990, 1991, 1992, 1993, or 1994)).

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. The Department of Fish and Wildlife urges hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1

Mount Chopaka

Goat Unit 2-2

Methow

~~((Goat Unit 3-2~~

~~North Wenatchee Mountains~~

~~Goat Unit 3-4~~

PERMANENT

PERMANENT

- Snoqualmie))
- Goat Unit 3-6
Naches Pass
- Goat Unit 3-7
Bumping River
- Goat Unit 3-9
Tieton River
- ~~((Goat Unit 4-1
Ruth Creek~~
- ~~Goat Unit 4-3
Chowder Ridge~~
- ~~Goat Unit 4-4
Lincoln Peak~~
- ~~Goat Unit 4-7
Avalanche Gorge))~~
- Goat Unit 3-10
Blazed Ridge
- Goat Unit 3-11
Kachess Ridge
- Goat Unit 4-8
East Ross Lake
- Goat Unit 4-9
Jack Mountain
- Goat Unit 4-32
Foss River
- Goat Unit 4-34
Pratt River
- Goat Unit 5-2
Tatoosh
- Goat Unit 5-4
Goat Rocks
- Muzzleloading Goat Hunts
~~((Goat Unit 3-5
Ele Elum))~~
- Goat Unit 3-8
Bumping River
- Archery Goat Hunts
~~((Goat Unit 3-3
Goat and Davis Mountains))~~
- Goat Unit 4-38
Corral Pass
- Goat Unit 5-3
Smith Creek
- Goat Unit 6-2
Quilcene River*
- Goat Unit 6-3
Hamma Hamma River

*Permits may or may not be available for this unit.

NATIVE CATS

A valid hunting license is required to hunt (including pursuit seasons) native cats. A hound stamp is required for all hunters if dogs are used to hunt any native cats. Cougar transport tags may be purchased at all department of fish and wildlife license dealerships or offices and must be in possession while hunting cougar.

COUGAR

Eastern Washington Pursuit-Only Season (Cougar may not be killed or injured.): Sept. ~~((1-30))~~ 4-30 and Nov. ~~((22, 1995))~~ 27, 1996-Jan. 31, ~~((1996))~~ 1997, ~~((in the cougar units listed below,))~~ EXCEPT Nov. 27, 1996-Feb. 28, 1997, in Cougar Units 5 and 6. Note: Closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. ~~((1))~~ 4-Oct. ~~((13, 1995))~~ 11, 1996.

~~((Early Permit))~~ Western Washington Pursuit-Only Season (cougar may not be killed or injured): Sept. 1-30 and Nov. 27, 1996-Feb. 28, 1997. General Cougar Season ~~((Permit required. Permit holders may not kill cougar with the use of hounds during the early cougar permit season.))~~ (Cougar may be killed. No special permit required. A valid cougar transport tag is required to hunt cougar.): Oct. ~~((14))~~ 12-Nov. ~~((21))~~ 10, 1996.

~~((General))~~ Eastern Washington Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. ~~((22, 1995))~~ 27, 1996-Jan. 31, ~~((1996))~~ 1997, EXCEPT Nov. ~~((22, 1995))~~ 27, 1996-Feb. 28, ~~((1996))~~ 1997 in Cougar Units 5 and 6. Note: Closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 4-Oct. 11, 1996.

Western Washington Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. 27, 1996-Feb. 28, 1997.

Who May Apply: Anyone with a valid ~~((1995))~~ 1996 Washington hunting license may submit one special permit application for cougar ~~((EXCEPT those who drew a cougar permit in 1994)).~~ Successful cougar applicants must purchase a cougar tag ~~((by October 1, 1995. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be voided and cougar permits will be issued to other applicants. Cougar permit applicants successfully drawing a 1995-96 cougar permit will be ineligible to apply for a cougar permit until the 1998-99 season))~~ before hunting cougar.

Bag Limit: One (1) cougar during the ~~((1995-96))~~ 1996-97 hunting season except that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

Hunt No.	Unit	Description
9001	1	Pend Oreille
9002	2	Colville
9003	3	Republic
9004	4	Spokane
9005	5	Blue Mountains
9006	6	Wenaha
9007	7	Okanogan
9008	8	Chelan

9009	9	Yakima
9010	10	Nooksack
9011	11	Skagit
9012	12	Snoqualmie
9013	13	North Olympic Peninsula
9014	14	South Olympic Peninsula
9015	15	Rainier
9016	16	South Puget Sound
9017	17	Cowlitz
9018	18	Skamania
9019	19	Pacific

WAC 232-28-225

WAC 232-28-404

WAC 232-28-407
WAC 232-28-60101

WAC 232-28-60102

WAC 232-28-604

WAC 232-28-60415

WAC 232-28-605

WAC 232-28-60508

WAC 232-28-61610

WAC 232-28-812

1991, 1992, and 1993
General opening dates for deer, elk, and upland birds.
1981-82 Upland game bird and migratory waterfowl seasons.
1983 Fall turkey season.
Opening of South Warden and Warden lakes in Grant County.
Closing of Medical Lake in Spokane County.
Game fish seasons and catch limits.
Season extension on Burke Lake (Grant County) through December 31, 1982.
1983 Game fish seasons and catch limits.
Establish an open fishing season on the Snake and Grande Ronde rivers to angling for steelhead.
Amendment to 1987-88 Washington game fish regulations—Elwha River.
1990 Mountain goat, sheep, moose, cougar, and lynx hunting seasons.

~~((Boot hunting opportunity for cougar: Hunters have to specifically apply (by hunt number) for either an early permit season tag or a general permit season tag. The early permit season is a boot only opportunity.~~

Hunt No.	Unit	Description
9020	1	Pend Oreille
9021	2	Colville
9022	3	Republic
9023	4	Spokane
9024	5	Blue Mountains
9025	6	Wenaha
9026	7	Okanogan
9027	8	Chelan
9028	9	Yakima
9029	10	Nooksack
9030	11	Skagit
9031	12	Snoqualmie
9032	13	North Olympic Peninsula
9033	14	South Olympic Peninsula
9034	15	Rainier
9035	16	South Puget Sound
9036	17	Cowlitz
9037	18	Skamania
9038	19	Pacific

LYNX

Season closed statewide.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 232-28-206	1983 Fall opening dates.
WAC 232-28-209	1985 Fall opening dates.
WAC 232-28-21201	Amendment to 1986 hunting seasons and rules.
WAC 232-28-215	1988, 1989, and 1990 Opening dates for modern firearm general buck deer, upland birds and waterfowl seasons.
WAC 232-28-216	1988, 1989, and 1990 Opening dates for early buck and primitive weapon seasons for deer and all elk season opening dates.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 232-24-120 Temporary regulation.

**WSR 96-04-045
PERMANENT RULES
WASHINGTON STATE LIBRARY**

[Filed February 5, 1996, 3:49 p.m.]

Date of Adoption: December 8, 1995.

Purpose: Amendment of WAC 304-12-145 and 304-12-290 and repeal of WAC 304-12-350, eliminating and/or changing requirements in competitive grant program Library Services and Construction Act (federal programs) grants to local libraries (WAC 304-12-145, 304-12-290, and 304-12-350). Requirements placed on local subgrantees can be simplified while maintaining adequate accountability for and control of federal funds; repeal of WAC 304-12-010, section effectively duplicates authority already vested in RCW 27.04.045; repeal of WAC 304-12-020 and 304-12-025, Washington State Library planning and development committee. Committee has accomplished its work, reactivation not anticipated; and repeal of chapter 304-25 WAC, pertaining to Western Library Network. The state library has not supervised the Western Library Network, which has been privatized, since December 31, 1990.

Citation of Existing Rules Affected by this Order: Amending WAC 304-12-145 Other services grant pro-

grams—Rules and 304-12-290 Construction grant program—Rules; and repealing WAC 304-12-350 Forms—Application for a grant, 304-12-010 Responsibilities of the Washington State Library Commission, 304-12-020 Washington library planning and development committee created—Appointments—Terms—Expenses, 304-12-025 Washington library planning and development committee—Duties, and chapter 304-25 WAC, Western Library Network.

Statutory Authority for Adoption: RCW 27.04.030.

Adopted under notice filed as WSR 95-21-091 on October 18, 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 22.

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 1.

Effective Date of Rule: Thirty-one days after filing.

February 5, 1996

Nancy Zussy

State Librarian

AMENDATORY SECTION (Amending Order 86-02, filed 6/4/86)

WAC 304-12-145 Other services grant programs—Rules. ~~((Five percent of the grant award will be withheld as the final payment. The final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the submission of the final reports.))~~ Up to a total of five percent of allowable costs to be claimed against the grant award will be deferred until the subgrantee's close out form has been approved by the Washington State Library.

AMENDATORY SECTION (Amending Order 88-03, filed 3/21/88)

WAC 304-12-290 Construction grant program—Rules. The following final rules and regulations were adopted by the Washington state library commission in order to comply with the provisions of the Library Services and Construction Act of 1969 (formerly Public Law 88-269; Public Law 89-511 and now Public Law 91-600).

(1) Only projects to be owned by a state or local public agency are eligible for consideration.

(2) Requests for projects from any unit within a library district must be submitted with approval by the respective district library administration.

(3) Applicants will be required to give written evidence of official approval of any governmental unit involved in the project.

(4) Agreements to observe the legal requirements of the grants will be executed between the Washington state library commission and the officials administering approved projects.

(5) Applicants will be required to submit adequate evidence for evaluation of their request on the points established as criteria for evaluation by the Washington state library commission.

(6) Each application will be acknowledged and each applicant notified when the project will be considered by the state library commission.

(7) Each applicant will be notified concerning acceptance or rejection by the state library commission within ten days of such official action.

(8) Rejected applications will be accompanied by a statement as to why the project was not approved.

(9) Rejected applications may be resubmitted with evidence the objections have been met.

(10) Any applicant who feels their request has been unjustly rejected may request a hearing. Said hearing will be set to meet the convenience of both the Washington state library commission and the applicant insofar as is reasonably possible.

~~((11) The local share must be expended before grant funds will be paid, except for those projects covering two fiscal years, in which instance federal regulations will hold. Grant funds will be paid based upon a percentage of completion.))~~

~~((12))~~ (11) Certification must be presented that local funds are on hand.

~~((13))~~ (12) Submission of a schedule of the planned progress of the project with estimated dates each step will be completed, is required.

~~((14))~~ (13) Upon receipt of formal approval by the state library commission, the project must be initiated within a six months' period.

~~((15))~~ (14) The building plans must meet the approval of the state library. Federal regulations, including but not limited to, evaluation of flood hazards, provision for the physically handicapped, environmental policies and procedures, and competitive bidding must be observed.

~~((16))~~ (15) When a plaque indicating completion date and source of funds is planned as part of the completed building or when a construction site sign is planned, acknowledgment shall be given to federal participation.

~~((17))~~ (16) The state library commission will establish a completion date, based upon the project architect's estimate of the time needed. A project is considered to be completed when it has been opened to the public for service.

~~((18))~~ (17) Expenses related to acquisition of an existing building or of land, architect's fees, preliminary planning and capital improvements mandated by law or regulation may be considered an allowable previous expense and used as matching funds. To be considered an allowable previous expense, the following criteria must be met:

(a) Expenses must be incurred within a three-year period prior to the date of award of the grant by the state library commission.

(b) Expenses must directly relate to the grant project.

(c) Type of funds used must meet allowable match criteria for Library Services and Construction Act projects.

(d) Expenditures must meet all federal regulations applicable to Library Services and Construction Act projects.

~~((19))~~ Five percent of the federal share of the project will be withheld as the final payment. Final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the completion of a successful audit.) (18) Up to a total of five percent of allowable costs to be claimed against the grant award will be deferred until the subgrantee's grant close out form has been approved by the Washington State Library. Further, subgrantee must document expenditures of nonfederal funds in an amount equal to or greater than the specific state share percent proscribed for Washington state by U.S. Department of Education in implementation of the LSCA, or the national general fifty percent federal construction match proscribed for LSCA, whichever is greater. This rate is defined as the federal match expenditure rate, and until subgrantees have expended the required amount of nonfederal funds, all claims submitted for payment will be funded at this rate.

~~((20))~~ (19) When changes in federal regulations affect the above without sufficient time for formal notice and change, federal regulations will be considered as official.

~~((21))~~ (20) Projects are reviewed by the agency designated by the governor as federal coordinator.

~~((22))~~ (21) The advisory council will be kept fully informed as to pending projects, and progress of the approved project.

~~((23))~~ (22) Participants in federally-funded projects will cooperate with the advisory council during the period of evaluation.

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.

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.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 304-12-010 Policy.
- WAC 304-12-020 Washington library planning and development committee created—Appointments—Terms—Expenses.
- WAC 304-12-025 Washington library planning and development committee—Duties.
- WAC 304-12-350 Forms—Application for a grant.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 304-25-010 General description of the western library network (WLN).

- WAC 304-25-020 Purpose.
- WAC 304-25-030 Definitions.
- WAC 304-25-040 Network organization.
- WAC 304-25-050 WLN membership.
- WAC 304-25-060 WLN membership responsibilities and rights.
- WAC 304-25-110 Washington state library.
- WAC 304-25-120 Public records available.
- WAC 304-25-510 General description of the western library network computer service.
- WAC 304-25-520 Purpose.
- WAC 304-25-530 Definitions.
- WAC 304-25-540 Computer service organization.
- WAC 304-25-550 Computer service membership.
- WAC 304-25-555 Computer service membership responsibilities and rights.
- WAC 304-25-560 Network services council.
- WAC 304-25-570 Network services council—Responsibilities and rights.
- WAC 304-25-580 Computer service.
- WAC 304-25-590 Public records available.

WSR 96-04-046
PERMANENT RULES
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
 (Community Development)
 [Filed February 5, 1996, 4:50 p.m.]

Date of Adoption: February 5, 1996.

Purpose: To adopt procedural rules for application for and distribution of grants to cities and counties from the growth management and environmental review fund.

Statutory Authority for Adoption: RCW 36.70A.500 and 43.21C.240.

Adopted under notice filed as WSR 96-01-105 on December 19, 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 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 6, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 5, 1996
 Anne D. Bariekman
 Rules Coordinator

PERMANENT

**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 96-04-058

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Order 5092—Filed February 6, 1996, 3:52 p.m.]

Date of Adoption: February 5, 1996.

Purpose: Addition of white cockle and bladder campion to the list of prohibited noxious weed seed in timothy only.

Citation of Existing Rules Affected by this Order: Amending WAC 16-300-010.

Statutory Authority for Adoption: RCW 15.49.011 and 15.49.051.

Pursuant to notice filed as WSR 95-23-070 on November 17, 1995.

Effective Date of Rule: Thirty-one days after filing, February 5, 1996

Jim Jesernig
Director

AMENDATORY SECTION (Amending Order 4017, filed 12/14/92, effective 1/14/93)

WAC 16-300-010 Prohibited noxious weed seeds.

(1) Prohibited (primary) noxious weed seeds are the seeds of weeds which when established are highly destructive, competitive and/or difficult to control by cultural or chemical practices.

(2) It shall be unlawful for any person to distribute mislabeled seed. Seed shall be deemed to be mislabeled if it consists of or contains any of the prohibited noxious weed seeds listed below. For the purpose of seed certification, see WAC 16-316-160 for the list of prohibited noxious weeds.

ENGLISH OR COMMON NAME

- Austrian fieldcress
- Field bindweed
- Hedge bindweed
- Bladder campion
- (only in timothy-

BOTANICAL OR SCIENTIFIC NAME

- Rorippa austriaca (Crantz) Bess.
- Convolvulus arvensis L.
- Convolvulus sepium L.
- Silene cucubalus

Phleum pratense

- Camelthorn
- Canada thistle
- Hairy whitetop
- Hoary cress
- Jointed goatgrass
- (only in small grain)
- Knapweed complex
- (including bighead,
- Vochin,
- black,
- brown,
- diffuse,
- meadow,
- Russian,
- and spotted knapweeds,
- and purple starthistle)
- Leafy spurge
- Lepyrodielis
- Perennial pepperweed
- Perennial sowthistle
- Quackgrass
- Serrated tussock
- Silverleaf nightshade
- Sorghum perennial such as, but not limited to, johnsongrass, sorghum alnum, and perennial sweet sudangrass
- Tansy ragwort
- Velvetleaf
- White cockle
- (only in timothy-
- Phleum pratense)
- Yellow-flowering skeleton weed

- Alhagi camelorum Fisch.
- Cirsium arvense (L.) Scop.
- Cardaria pubescens (C.A. Mey.)
- Cardaria draba (L.) Desv.
- Aegilops cylindrica

- Centaurea macrocephala,
- Centaurea nigrescens,
- Centaurea nigra,
- Centaurea jacea,
- Centaurea diffusa,
- Centaurea jacea x nigra,
- Centaurea repens,
- Centaurea maculosa,
- Centaurea calcitrapa
- Euphorbia esula L.
- Lepyrodielis holsteoides
- Lepidium latifolium L.
- Sonchus arvensis L.
- Agropyron repens (L.) Beauv.
- Nassella trichotoma
- Solanum elaeagnifolium Cav.
- Sorghum spp.

- Senecio jacobaea L.
- Abutilon theophrasti
- Lychnis alba

Chondrilla juncea L.

WSR 96-04-060

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Order R 95-9—Filed February 6, 1996, 4:08 p.m.]

Date of Adoption: February 6, 1996.

Purpose: To define the process through which health carriers may offer the basic health plan services to individuals and organizations where there is a religious or moral objection to certain of those services.

Statutory Authority for Adoption: RCW 48.43.065.

Other Authority: RCW 48.02.060.

Adopted under notice filed as WSR 95-24-098 on December 6, 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 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:

PERMANENT

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.

February 6, 1996

Deborah Senn

Insurance Commissioner

NEW SECTION

WAC 284-10-140 Recognizing the exercise of conscience by purchasers of basic health plan services and ensuring access for all enrollees to such services. (1) All carriers required pursuant to law to offer and file with the commissioner a plan providing benefits identical to the basic health plan services (the model plan) shall file for such plan a full description of the process it will use to recognize an organization or individual's exercise of conscience based on a religious belief or conscientious objection to the purchase of coverage for a specific service. This process may not affect a nonobjecting enrollee's access to coverage for those services.

(2) A religiously sponsored carrier who elects, for reasons of religious belief, not to participate in the provision of certain services otherwise included in the model plan, shall file for such plan a description of the process by which enrollees will have timely access to all services in the model plan.

(3) The commissioner will not disapprove processes that meet the following criteria:

(a) Enrollee access to all basic health plan services is not impaired in any way;

(b) The process meets notification requirements specified at RCW 48.43.065; and

(c) The process relies on sound actuarial principles to distribute risk.

WSR 96-04-073

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed February 7, 1996, 10:55 a.m.]

Date of Adoption: January 26, 1996.

Purpose: To implement ESHB 1518 (chapter 284, Laws of 1995) which requires the State Board of Education to establish rules for awarding clock hours for participation in internships with business, industry, or government.

Statutory Authority for Adoption: RCW 28A.415.020, 28A.415.025.

Adopted under notice filed as WSR 96-01-079 on December 18, 1995.

Changes Other than Editing from Proposed to Adopted Version: Adoption of amendments to WAC 180-85-025 was delayed until the March 20-22, 1996, meeting of the board. Amendments to WAC 180-85-030 were withdrawn.

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 7, 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 7, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 1996

Larry Davis

Executive Director

NEW SECTION

WAC 180-83-010 Authority. The authority for this chapter is RCW 28A.415.020 and 28A.415.025 which authorize the state board of education to define the term "internship" and establish rules for awarding clock hours for the purpose of placement on the state-wide salary allocation schedule for participation of certificated personnel in internships with business, industry, or government.

NEW SECTION

WAC 180-83-020 Definitions. As used in this chapter, the following definitions shall apply:

(1) "Intern" means a certified instructional staff employee of a school district as defined at RCW 28A.150.100.

(2) "Internship" or "approved internship" means the actual paid or unpaid work experience performed by an intern in a business, industry, or government setting that meets the requirements set forth in WAC 180-83-030 and 180-83-040.

NEW SECTION

WAC 180-83-030 Internship requirements. An approved internship with a business, industry, or government agency shall meet the following requirements:

(1) A written plan for the internship experience shall be developed and approved jointly by the intern, a representative on behalf of the school district where the intern is employed, and a representative of the business, industry, or government agency where the internship will take place.

(2) The plan shall:

(a) Provide the intern with the opportunity to learn current practices in business, industry, or government;

(b) Identify the skills and knowledge that will be enhanced and any practical applications of such skills and knowledge in the curriculum they teach; and

(c) Indicate that the internship is directly related to the intern's current education assignment, or to his or her education assignment for the following school year.

NEW SECTION

WAC 180-83-040 Internship report. (1) Upon completion of the internship, the intern shall submit to the school district a report that includes the following information:

(a) Completion of the requirements under WAC 180-83-030;

(b) Summary evaluation by the intern of the internship experience;

(c) Summary evaluation by the business, industry, or government agency representative of the intern's experience; and

(d) Whether the internship will be claimed for purposes of recognition on the salary allocation schedule developed by the legislative evaluation and accountability program committee.

(2) The report shall be signed by the intern and business, industry, or government agency representative.

(3) The school district shall forward annually to the state board of education, on or before December 1, the internship reports for the previous school year.

NEW SECTION

WAC 180-83-050 Employment and compensation.

The employment status, if any, of an intern during the internship shall be determined jointly by the intern, school district, and internship provider. Remuneration, and/or benefits, and/or the provision of other employer responsibilities related to the internship shall be established prior to the beginning of the internship. Responsibilities under this section may be shared between the school district and the internship provider.

NEW SECTION

WAC 180-83-060 Clock hours.

(1) Pursuant to RCW 28A.415.020 and 28A.415.025, for each forty clock hours of participation in an approved internship with a business, industry, or government agency, the intern shall receive the equivalent of one credit college quarter course on the salary allocation schedule developed by the legislative evaluation and accountability program committee.

(2) An intern may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period.

(3) The total number of credits for approved internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits.

(4) It is the responsibility of the intern to monitor compliance with subsections (2) and (3) of this section. A school district shall not recognize more internship clock hours than those recognized under subsections (2) and (3) of this section for purposes of application to the salary allocation schedule developed by the legislative evaluation and accountability program committee.

NEW SECTION

WAC 180-83-070 Effective date.

Approved internship clock hours eligible for application to the salary allocation schedule developed by the legislative evaluation and accountability program committee or its successor agency shall be those hours acquired after December 31, 1995.

WSR 96-04-079

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed February 7, 1996, 11:37 a.m.]

Date of Adoption: December 13, 1995.

Purpose: Adding Hepatitis b as a new vaccination requirement for all children entering school, preschool and childcare in Washington state, beginning with the 1997-1998 school year.

Citation of Existing Rules Affected by this Order: Amending WAC 246-100-166.

Statutory Authority for Adoption: RCW 28A.210.140.

Adopted under notice filed as WSR 95-22-089 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 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.

February 2, 1996

Sylvia I. Beck

Executive Director

AMENDATORY SECTION (Amending Order 182B, filed 7/22/91, effective 8/22/91)

WAC 246-100-166 Immunization of ~~((day))~~ child care and school children against certain vaccine-preventable diseases. (1) Definitions for purposes of this section:

(a) "Certificate of immunization status (CIS) form" means a form provided by the department labeled DOH 348-013, including data entry spaces for immunization information including:

(i) Name of child or student,

(ii) Birth date,

(iii) ~~((Sex,))~~ Gender,

(iv) Type of vaccine,

(v) Date of each dose of vaccine received specifying day, month, and year,

(vi) Signature of parent, legal guardian, or adult in loco parentis, and

(vii) Documented exemptions, if applicable and as specified in subsection (5) of this section.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for the immediate supervision of the operation of a school, ~~((day))~~ child care center, or

(ii) A designee of the chief administrator assigned in writing to carry out the requirements of RCW 28A.210.160

through the statutory or corporate board of directors of the school district or school, or

(iii) Person or persons with the authority and responsibility for the general supervision of the operation of the school district or school.

(c) "Child" means any person regardless of age admitted to any ~~((day))~~ child care center, preschool, kindergarten, or grades one through twelve program of education in:

(i) Any public school district, or

(ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060, or

(iii) Any licensed ~~((day))~~ child care facility which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours subject to licensure by the department of social and health services as described in chapter 74.15 RCW.

(d) "Full immunization" means vaccinated in accordance with schedules and immunizing agents approved by the state board of health in WAC 246-100-166 against:

(i) Diphtheria,

(ii) Tetanus,

(iii) Pertussis or whooping cough,

(iv) Measles or rubeola,

(v) Rubella,

(vi) Mumps,

(vii) Poliomyelitis, ~~((and))~~

(viii) Haemophilus influenzae type b disease, and

(ix) Hepatitis b, after September 1, 1997.

(e) "Immunizing agents" means any vaccine or other biologic licensed and approved by the ~~((bureau of biologies,))~~ United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against:

(i) Diphtheria, tetanus, pertussis (DTP, DT, Td);

(ii) Measles;

(iii) Mumps;

(iv) Poliomyelitis, types I, II, and III (TOPV, IPV);

(v) Rubella; ~~((and))~~

(vi) Haemophilus influenzae type b vaccine (Hib); and

(vii) Hepatitis b.

(f) "National immunization guidelines" means the schedule~~((s))~~ for immunization described in~~((s))~~

~~((i)) 1991 American Academy of Pediatrics Report of the Committee on Infectious Diseases (Red Book); or~~

~~((ii)) Immunization Practices Advisory Committee (ACIP) on General Recommendations on Immunization, April 7, 1989; and~~

~~((iii)) Immunization Practices Advisory Committee (ACIP) on Haemophilus b Conjugate Vaccines for Prevention of Haemophilus Influenzae Type b Disease Among Infants and Children Two Months of Age and Older, January 11, 1994)) the "Recommended Childhood Immunization Schedule: United States—January 1995," approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).~~

(g) "Parent" means a person who is:

(i) The mother, father, legal guardian, or any adult in loco parentis of a child seventeen years of age or younger; or

(ii) A person eighteen years of age or older; or

(iii) An emancipated minor.

(h) "Transfer student" means a student previously enrolled in grades kindergarten through twelve moving from one school district or system to another at any time during the school year, excluding students transferring within a district or system when the school transfers records within the district.

(2) Full immunization schedule. Each ~~((day))~~ child care center, preschool, and school shall establish and maintain requirements for full immunization of children attending ~~((day))~~ child care and preschool through grade twelve.

(3) For ~~((day))~~ child care and preschool children, full immunization means a child received age-appropriate vaccines as ~~((follows):~~

Age at Entry	Requirement ((s))
between 2-3 months	1 DTP/DT, 1 OPV/IPV, 1 Hib
between 4-5 months	2 DTP/DT, 2 OPV/IPV, 2 Hib
between 6-14 months	3 DTP/DT, 2 OPV/IPV, 3 Hib ((s))
between 15 months and kindergarten entry	4 DTP/DT, 2 OPV/IPV, 1 Hib ((s)) , 1 MMR ((s))

~~((s)) Children who do not meet the requirements for their age group must initiate or continue a schedule of immunization prior to day care or preschool entry and must be notified by the day care/preschool administrator of additional doses of vaccine as those doses come due.~~

~~((s)) Children immunized with Hib vaccine from Merck Sharp and Dohme (PedvaxHIB) should receive vaccine at 2 months, 4 months, and 12 months of age.~~

~~((s)) Those children entering day care or preschool after 15 months of age must have received one dose of Hib vaccine at or after 15 months of age (not required of those receiving three doses of Merck Sharp and Dohme vaccine). Hib vaccine is not required of children 60 months (5 years) and older.~~

~~((s)) Children who have had measles, rubella, or mumps disease, respectively, must show proof of past infection with the disease by providing an acceptable measles, rubella, or mumps antibody titer result and appropriate immunization against the remaining disease~~((s))~~ enumerated in the National Immunization Guidelines as defined in subsection (1) of this section.~~

(4) For a child entering kindergarten or first grade (school entry level), full immunization means a child received age-appropriate vaccines as ~~((follows):~~

~~((a)) A minimum of four doses of either DTP, DT, or Td (not tetanus toxoid alone) with last dose after four years of age consistent with national immunization guidelines defined in subsection (1) of this section, or~~

~~((b)) Three doses of Td (not tetanus toxoid alone) if the series began at seven years of age or older, and~~

~~((c)) A minimum of three doses of trivalent oral poliomyelitis vaccine (TOPV) or enhanced trivalent inactivated poliomyelitis vaccine (IPV) with last dose received after four years of age and consistent with national immunization guidelines defined in subsection (1) of this section, and~~

~~((d)) One dose of live virus measles vaccine at or after one year of age unless a child provides proof of past infection with measles virus (an acceptable measles virus antibody titer result), and~~

~~((e)) One dose of live virus rubella vaccine at or after one year of age unless a child provides proof of past infection with rubella virus (an acceptable rubella antibody titer result), and~~

~~((f)) One dose of live virus mumps vaccine administered at or after one year of age unless a child provides proof of~~

past infection with mumps virus (an acceptable mumps virus antibody titer result)) enumerated in the National Immunization Guidelines as defined in subsection (1) of this section.

~~((5))~~ For transfer students and those above kindergarten or first grade, full immunization means a child received age-appropriate vaccines (as follows:

(a) A minimum of three doses of either DTP, DT, or Td, (not tetanus toxoid alone) with the last dose after four years of age consistent with national immunization guidelines defined in subsection (1) of this section; or

(b) Three doses of Td, (not tetanus toxoid alone) if the series began at seven years of age or older; and

(c) A minimum of three doses of trivalent oral poliomyelitis vaccine (TOPV), or enhanced trivalent inactivated poliomyelitis vaccine (IPV) with the last dose received after four years of age and consistent with national immunization guidelines defined in subsection (1) of this section (not required of persons eighteen years of age and older); and

(d) One dose of live virus measles vaccine at or after one year of age unless a child provides proof of past infection with measles virus (an acceptable measles virus antibody titer result); and

(e) One dose of live virus rubella vaccine at or after one year of age unless a child provides proof of past infection with rubella virus (an acceptable rubella antibody titer result); and

(6) For transfer students in grades 1 or 2 through 12 enrolling on or after August 1, 1991, one dose of live virus mumps vaccine administered at or after one year of age unless a child provides proof of past infection with mumps virus (an acceptable mumps virus antibody titer result).

(7) For a child entering sixth grade or reaching age thirteen years, whichever occurs first, full immunization means a child received the following vaccines (in addition to those listed in subsection (5) of this section):

(a) A second dose of live virus measles vaccine administered at or after one year of age and separated by at least one month between first and second dose, unless a child provides proof of past infection with measles virus (an acceptable measles virus antibody titer result); and

(b) One dose of live virus mumps vaccine administered at or after one year of age unless a child provides proof of past infection with mumps virus (an acceptable mumps virus antibody titer result).

(8) A second dose of measles vaccine and one dose of mumps vaccine is recommended, but not required, of currently enrolled students above sixth grade)) consistent with the National Immunization Guidelines as defined in subsection (1) of this section (not required of persons eighteen years of age and older).

~~((9))~~ (5) Conditions for ~~((day))~~ child care, preschool, and school attendance when a child is not fully immunized:

(a) When a child lacks full immunization, the ~~((day))~~ child care center, preschool, or school shall require satisfactory progress toward full immunization (conditional status) as a condition of school attendance including:

(i) Documented proof of start or continuance of child's schedule of immunization;

(ii) Assurance the scheduled immunization is consistent with the national immunization guidelines defined in subsection (1) of this section;

(iii) Notification of child's parent(s) of when the schedule must be completed; and

(iv) Exclusion of child from attendance as described in subsection ~~((13))~~ (9) of this section if child has not received required immunizations on schedule and if sufficient time has elapsed (one month from date due) for completion of next dose.

~~((10))~~ (6) Schools, preschools, and ~~((day))~~ child care centers shall require documented proof related to immunization including:

(a) Completion of a certificate of immunization status (CIS) form by a parent as documented proof of:

(i) Full immunization, or

(ii) Initiation or continuation of a schedule (conditional status), or

(iii) Exemption.

(b) Information from a written personal immunization record, as the source of the immunization data entered on the CIS form (substitution of a personal immunization record for a CIS form is prohibited);

(c) Acceptance of only the CIS form (no other state or local immunization forms) from new enrollees registering in kindergarten through grade twelve;

(d) In addition to current CIS form, acceptance of previous CIS forms, or locally developed forms approved by the department indicating the month and year of each immunization as the official immunization status for children enrolled prior to September 1, 1979.

~~((11))~~ (7) Schools, preschools, and ~~((day))~~ child care centers shall accept medical exemptions and:

(a) Require a signature of a licensed medical doctor (M.D.), doctor of osteopathy (D.O.), doctor of naturopathy (N.D.), physician assistant, or nurse practitioner practicing within the limits of the medical or nurse practice acts to certify medical reasons to defer one or more immunizations on the CIS form;

(b) Admit children and keep on file a CIS form for children with:

(i) Temporary exemption from immunization for medical reasons if the required immunizations are received upon expiration of the exemption, or

(ii) Permanent exemptions.

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school or ~~((day))~~ child care for the duration of the outbreak by order of the local health department as described in subsection ~~((13))~~ (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

~~((12))~~ (8) Schools, preschools, and ~~((day))~~ child care centers shall:

(a) Allow a parent to exempt his/her child from the required immunizations for religious, philosophical, or personal objections when the CIS form indicates:

(i) Type or exemption, and

(ii) Signature of parent.

(b) Keep on file a CIS form for each child so enrolled;

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school for the duration of the outbreak by

order of the local health department as described in subsection ~~((13))~~ (9) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

~~((13))~~ (9) Schools, preschools, and ~~((day))~~ child care centers shall exclude children from school as follows:

(a) Exclude any child from school for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance consistent with procedures required by the state board of education, Title 180 WAC;

(b) Exclude from attendance any child in a ~~((day))~~ child care center for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance;

(c) The chief administrator shall retain records on excluded children for at least three years including:

- (i) Name,
- (ii) Address, and
- (iii) Date of exclusion.

(d) A health officer may exclude children from school, preschool, and ~~((day))~~ child care attendance in the event of a child's exposure to a disease according to chapter 246-110 WAC, including children presenting proof of:

- (i) Initiation of a schedule of immunization,
- (ii) Medical exemption,
- (iii) Religious exemption,
- (iv) Philosophical exemption, or
- (v) Personal exemption.

~~((14))~~ (10) Schools, preschools, and ~~((day))~~ child care centers shall maintain records and require:

(a) A completed CIS form retained in the files for every child enrolled;

(b) Return of original CIS form or a legible copy to the parent in the event of the child's withdrawal or transfer from school (withholding a record for any reason, including nonpayment of school, preschool, or ~~((day))~~ child care fees is prohibited)~~((-))~~;

(c) Access to immunization records by agents of the state or local health department for each child enrolled.

~~((15))~~ (11) Persons or organizations administering immunizations, either public or private, shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 246-100 WAC.

~~((16))~~ (12) Chief administrators of schools, preschools, and ~~((day))~~ child care centers shall forward a written annual report to the department and local health department on the immunization status of children as follows:

(a) For schools: By November 1 of each year on forms provided by the department (except in the event of a late school opening when the report is due thirty days after the first day of school);

(b) For preschools and ~~((day))~~ child care centers: By February 1 of each year on forms provided by the department.

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

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the ~~((Washington basic health plan))~~ administrator of the Washington state health care authority (HCA) or designee.

~~((2) "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.))~~

(2) "Appeal procedure" means a written procedure for resolution of problems or concerns raised by enrollees.

(3) "Basic health plan" (BHP) means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the HCA administrator through managed health care systems, created by chapter 70.47 RCW. The Washington state basic health plan is a program within the Washington state health care authority.

~~((3))~~ (4) "Copayment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system, ~~((or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.))~~

~~((4))~~ (5) "Covered services" means those services and benefits to which an enrollee is entitled, under the ~~((certificate of coverage))~~ benefit booklet issued by the ~~((plan))~~ HCA to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

~~((5) "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either (a) younger than age nineteen, or (b) younger than age twenty-three and (i) is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in WAC 55-01-010 (5)(b)(i).))~~

(6) "Effective date of enrollment" means the first date, as established by the ~~((plan))~~ HCA, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

(7) "Eligible dependents." The following are eligible as dependents under the BHP:

(a) Lawful spouse of the subscriber, if not legally separated, who resides in the same residence.

(b) Dependent child who is an unmarried child and who is:

(i) Younger than age nineteen and is a natural child, stepchild or legally adopted child.

(ii) Younger than age twenty-three who is a registered student in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the subscriber is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(iii) Legal dependent of any age who is incapable of self-support due to developmental disability or physical handicap.

(8) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

~~((7))~~ (9) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the ~~((plan))~~ BHP, and for whom applicable premium payments have been made.

~~((8))~~ (10) "Family" means an individual or an individual and the individual's ~~((spouse, if not legally separated, and the individual's dependent children))~~ eligible dependents. For purposes of eligibility determination and enrollment in the ~~((plan))~~ BHP, an individual, or dependent cannot be a member of more than one family.

~~((9) "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in~~

the plan, and for whom the applicable premium has been paid.

(11) "Financial sponsor" means a person, employer or other entity that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any family dependents.

~~((10))~~ "Grievance procedure" means the formal process for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

~~((11))~~ (12) "Gross family income" means ((the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan. (a) For purposes of this definition, for applications for enrollment which are received by the plan on or before March 31, 1989, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits. (b) For purposes of this definition, for applications for enrollment which are received by the plan on or after April 1, 1989 and for premium payments which are made for coverage on or after June 1, 1989, "income" means)) total cash receipts of the subscriber and eligible dependents before taxes from all sources, with the exceptions noted in (b) below.

~~((12))~~ (a) Income includes: (i) money wages and salaries before any deductions regardless of whether those eligible dependents enroll in BHP; (ii) net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); (iii) net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); (iv) regular payments from Social Security, child support, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance ((including aid to families with dependent children, supplemental security income, emergency assistance money payments, and non-federally funded general assistance or general relief money payments), and training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions)) (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash; (v) work study; and (vi) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

~~((13))~~ (b) Income does not include the following types of money received: (i) Capital gains; (ii) any assets drawn down as withdrawals from a bank, the sale of property, a house or a car; (iii) tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation)((-Also excluded are));(iv) noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages,

the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance((-); (v) ~~((e))~~ "Income shall not include) income earned by dependent children except for regular payments from Social Security, nor shall it include income of a family member who resides in another household when such income is not available to ((those family members)) the subscriber and eligible dependents seeking enrollment in the ((plan)) BHP; and (vi) university scholarships, grants, fellowships and assistantships if not convertible to cash.

~~((d))~~ In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level. (For example, if an applicant receives quarterly interest payments in January, April, July, and October, and applies for coverage by the plan in September, the July payment will be divided by three to obtain a monthly income amount.))

~~((12))~~ (13) "Managed health care system" (or "MHCS") means any health care organization who has entered into a contract with the HCA to provide the BHP to enrollees, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to ((a defined patient population enrolled in the plan and in the managed health care system)) enrollees. On and after July 1, 1995, "MHCS" means a certified health plan as defined in RCW 43.72.010.

(14) "Medicaid" means the Title XIX Medicaid program. This medical care program is administered by the Medical Assistance Administration to the "categorically needy" as defined in chapters 388-82 and 388-92 WAC and to those defined as "medically needy" under WAC 388-80-005(45).

~~((13))~~ (15) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(16) "Benefit booklet" means a written document issued by the HCA to a subscriber which describes the covered services, premiums, appeal procedures and other rights and responsibilities of enrollees. The benefit booklet represents the enrollee's certificate of coverage. The benefit booklet issued to a subscriber shall apply to the subscriber and enrolled dependents.

(17) "Nonsubsidized enrollee" means an enrollee who pays, or on whose behalf is paid (excluding Medicaid recipients or those enrollees who are eligible to receive Medicaid benefits), the full costs for participation in BHP, including administrative costs, without any subsidy from BHP.

~~((14))~~ (18) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their ((membership)) enrollment from one

participating managed health care system to another. ~~((There shall be at least one open enrollment period of at least twenty consecutive days, at least once annually, in each site served by the plan.))~~

~~(((15))) "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.~~

~~(((16))) (19) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber or financial sponsor makes to the ((plan)) HCA on behalf of the subscriber and ((family)) eligible dependents in consideration for enrollment in the ((plan)) BHP.~~

~~(((17)) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.))~~

~~(((18))) (20) "Rate" means the per capita amount, including any applicable premium and prepayment tax imposed under RCW 48.14.020, negotiated by the administrator with and paid to a ((participating)) managed health care system, ((that is based upon the enrollment of enrollees in the plan and in that MHCS)) to provide the schedule of benefits described in the benefit booklet to enrollees.~~

~~(21) "Residence" means the one principal physical location at which an individual lives.~~

~~(((19)) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems.))~~

~~(((20))) (22) "Service area" means the geographic area served by a ((participating)) managed health care system as defined in its contract with the ((plan)) HCA.~~

~~(((21))) (23) "Site" means a geographic area designated by the ((plan)) HCA in which one or more ((participating)) managed health care systems are offered to enrollees for selection.~~

~~(((22))) (24) "Subscriber" is a person who meets all applicable eligibility requirements, is enrolled in the BHP, and for whom the monthly premium has been paid. Notices (with the exception of disenrollment notices) to a subscriber, or if applicable to a financial sponsor, shall be considered notice to the subscriber and his/her enrolled dependents. Disenrollment notices will be sent to the subscriber, or the parent or legal guardian of an enrolled dependent child. ((means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.~~

~~(((23)) "Subsidy" means the difference between the rate paid by the administrator to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.~~

(25) "Subsidized enrollee" means an enrollee whose gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services, for whom funds are available to provide a partial subsidy of the premium according to a premium schedule adopted by the administrator. Medicaid recipients who are enrolled in managed health care systems through the BHP are also considered by the HCA and the department of social and health services to be "subsidized" enrollees.

(26) "Subsidy" means the difference between the premium responsibility of a subsidized enrollee, who is not a Medicaid recipient, and the costs incurred by the HCA in providing coverage to that subsidized enrollee. The costs incurred include both the rate paid by the HCA to a managed health care system on behalf of the enrollee and that portion of the administrative cost of providing the BHP allocated by the administrator to that enrollee.

~~(((24)) "Washington basic health plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 RCW.))~~

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

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-020 Schedule of benefits. (1) The administrator shall design and from time to time may revise a schedule of benefits which shall include such physician services, inpatient and outpatient hospital services, prescription drugs and medications, proven preventive and primary care services, all services necessary for prenatal, postnatal and well-child care, and other services as determined by the administrator to be necessary for basic health care and which enrollees shall receive in return for premium payments to the ((plan)) HCA and payment of required copayments. The schedule of benefits is subject to copayments, limitations and exclusions detailed in the benefit booklet. ~~((However, for the period beginning July 1, 1992, and ending June 30, 1993, the schedule of benefits shall not include prenatal or postnatal services for enrollees who are eligible for coverage under the medical assistance program under chapter 74.09 RCW, except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider, or except to provide any such services associated with pregnancies diagnosed by the managed care provider before July 1, 1992. The schedule of benefits may include copayments, limitations and exclusions which the administrator determines are appropriate and consistent with the goals and objectives of the plan.~~

~~(2) In designing and revising the schedule of benefits, the administrator will consider the effects of particular~~

benefits, copayments, limitations and exclusions on access to necessary basic health care services, as well as the cost to the enrollees and to the state, and will also consider generally accepted practices of the health insurance and managed health care industries.)

~~((3))~~ (2) Prior to enrolling in the ~~((plan))~~ BHP, each applicant will be given a complete written description of covered benefits, including all copayments, limitations and exclusions. Enrollees will also be given information on the services, providers, facilities, hours of operation, and other information descriptive of the managed health care system(s) available to enrollees in a given site.

~~((4))~~ (3) Subscribers will be given written notice by the ~~((plan))~~ HCA of any ~~((planned revisions to the benefit package and the accompanying premiums,))~~ changes in the amount and scope of benefits provided under the BHP. Such notice ~~((to))~~ will be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect. ~~((For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan. The administrator will make available a separate schedule of benefits for children, eighteen years of age and younger, for those who choose to enroll only their dependent children in the plan.))~~

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-030 Premiums and copayments. (1) ~~((Each))~~ Subscribers shall be responsible for paying a monthly premium to the ~~((plan))~~ HCA, on behalf of the subscriber and all ~~((family))~~ enrolled dependents ~~((, according to a premium schedule to be provided by the plan at the time the subscriber is enrolled by the plan)).~~ A third party may, with the approval of the administrator, become a financial sponsor and pay all or a designated portion of the premium on behalf of any enrollee.

(2) Any co-payments required will be established initially in the contract between the HCA and the MHCS and will be detailed in the benefit booklet. Premiums are based on the subscriber's gross family income, the total number of people in the family, and the age of each enrollee. The benefit booklet shall specify the terms of payment and notice requirement for changes in the premium. ~~((The amount of premium payable by any subscriber will be based upon the subscriber's gross family income and rates payable to participating managed health care systems, and may vary with the number and ages of individuals enrolled from a given family. A third party may, with the approval of the administrator and through a mechanism acceptable to the administrator, pay the premium on behalf of any enrollee. Premium amounts payable shall be a monthly dollar payment or a percentage of the total rate payable by the plan. A statement of the monthly amount due will be mailed to the subscriber upon determination of eligibility for the plan.~~

~~((2))~~ Based on the information provided by an enrollee on the application for enrollment, and any other information obtained by the plan, the enrollee will be informed of the premium amount due. The plan will notify subscribers in writing of any revisions to the premium schedule or to the

premium amounts payable to the plan, such notice to be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect, except that retroactive enrollment of a newborn or newly adopted child (as provided in WAC 55-01-050(6)) may result in a corresponding retroactive increase in premium payable to the plan. For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan.

(3) Once the plan has determined that a subscriber and members of the subscriber's family (if any) are eligible for enrollment, the plan will bill the subscriber for the family's first month's premium. The subscriber and family members will not be eligible to receive covered services on the effective date of enrollment specified by the plan unless the premium bill is paid in full by the due date specified on the bill. Thereafter, the plan will bill each subscriber monthly, and the subscriber shall be responsible for payment of the billed amount in full by the date specified on the bill.

(4) Premium bills must be paid in full by the date specified on the bill. Payment may be made in person at the plan's administrative office in Olympia, Washington, or by mail to the address specified on the bill. If the plan does not receive payment in full of a premium bill by 5:00 p.m. on the date specified on the bill, the plan shall issue a notice of delinquency to the subscriber, at the subscriber's last address on file with the plan, requiring payment in full by a date not less than ten days from the date of the notice. If full payment is not received by the date specified in the delinquency notice, the subscriber and enrolled family members will be disenrolled effective the first day of the month following the last month for which full premium payment was received by the plan. Partial payment of premiums due will be regarded as nonpayment. The plan may disenroll a subscriber and enrolled family members in the event that the subscriber receives more than two delinquency notices in a twelve-month period.

~~((5))~~ (3) Enrollees shall be responsible for paying any required copayment, ~~((directly to the provider of a covered service, unless the enrollee has been instructed by his or her managed health care system or the plan to make payment to another party. Copayments must be paid in full by the enrollee at the time of service.))~~ Failure to pay a required copayment in full at the time of service may result in the denial or rescheduling of that service by the managed health care system. Repeated failure to pay copayments in full on a timely basis may result in disenrollment, as provided in WAC 55-01-060(2).

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

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

WAC 55-01-040 Eligibility. (1) To be eligible for enrollment in the plan, an individual must:

(a) ~~((Be under age sixty five;~~

~~((b) Not be eligible for medicare;))~~ Not be eligible for medicare;

(b) At the time of enrollment, not have or not have voluntarily relinquished health insurance more comprehensive than that offered by the BHP based upon a determination by the administrator. Factors which may be considered in determining whether insurance is more comprehensive include, but are not limited to, enrollee's current benefit plan and the associated co-pays, co-insurance, deductibles and benefit exclusions;

(c) Reside within the service area of a ((participating)) managed health care system; and

(d) ((Have a gross family income at the time of enrollment that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the Federal Department of Health and Human Services.)) If subsidized and if requested by the administrator, provide proof that a Medicaid eligibility determination has been completed within the last thirty days, including the results of that determination.

Persons not meeting all of these criteria (with the exception of (b)), at the time of initial application, as evidenced by information submitted on the application for enrollment or otherwise obtained by the ((plan)) HCA, will not be enrolled. Criterion (b) must be met at the time of enrollment. An enrollee who subsequently fails to meet all of the criteria, or is later determined to have failed to meet all of the criteria at the time of enrollment, will be disenrolled from the ((plan)) BHP as provided in WAC 55-01-060((—except that an enrollee whose gross family income exceeds twice the federal poverty level may continue as an enrollee for up to six months, provided all other criteria are met and provided that the enrollee pays a monthly premium equal to the rate stated in the contract between the plan and the participating managed health care system selected by the enrollee)).

(2) To be eligible for subsidized enrollment in the BHP, an individual must have a gross family income that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services.

The administrator may require enrollees or prospective enrollees to complete the following eligibility determination process, as further defined under chapter 74.09 RCW (pertaining to eligibility for the Medicaid program), prior to enrollment or continued participation in the BHP.

(a) A prospective or current enrollee shall comply with an HCA request to provide evidence to the administrator that a Medicaid eligibility determination has been completed within the past thirty days and the results of this determination.

(b) The administrator shall ensure that all prospective or current BHP enrollees who are determined to be eligible for Medicaid receive complete information regarding the benefits available through the Medicaid program compared to the benefits they would receive (or are currently receiving) under the BHP.

(c) Failure or refusal on the part of a prospective or current enrollee to comply with a request to complete the Medicaid eligibility determination process may preclude enrollment and may affect continued participation in the BHP subsidy.

((2)) (3) An individual otherwise eligible for enrollment in the ((plan)) BHP may be denied enrollment if the

administrator has determined that acceptance of additional enrollment in a given service area would exceed limits established by the legislature((—would jeopardize the orderly development of the plan in that service area, or would result in an overexpenditure of plan funds)) or additional enrollment in a given MHCS would exceed established contract limits, or would result in an overexpenditure of BHP funds, or would jeopardize the orderly development of BHP. In the event that the administrator closes enrollment in a given service area, the ((plan)) HCA will continue to accept applications for enrollment, but will not process those applications for determination of eligibility. The ((plan)) HCA will place the names of applicants on a waiting list in the order in which applications are received, and will so notify the applicants. In the event that enrollment is re-opened by the administrator, applicants whose names appear on the waiting list will be notified by the ((plan)) HCA of the opportunity to enroll; provided that the ((plan)) HCA may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.

(4) The HCA will accept applications for group enrollment in the BHP from business owners on behalf of themselves and their employees, spouses and dependent children if:

(a) The BHP is the only health plan offered by the business to its eligible employees;

(b) The business owner pays at least fifty percent of the nonsubsidized premium cost of the BHP on behalf of each employee enrolled in the plan; and

(c) The employee is not eligible for medicare.

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

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-050 Enrollment in the plan. (1) Any individual applying for enrollment in the ((plan)) BHP must complete, sign and submit ((the plan's)) a BHP application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or legal guardian, who shall also be held responsible ((by the plan)) for payment of premiums due on behalf of the child. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the benefit booklet.

(2) Each applicant shall ((complete and sign the application for enrollment,)) list((ing)) those family members to be enrolled and supply((ing)) such other information and documentation as required by the ((plan)) HCA.

(a) Documentation will be required, showing the amount and sources of ((applicants'')) applicant's year to date income to include ((for)) the most recent complete calendar month

as of the date of application, ~~((— Applicants will also be required to submit))~~ and a signed copy of their most recently filed federal income tax form. Acceptable ((~~†~~) income documentation shall be required for all ((income-earning)) family members, including those not applying for enrollment, except for family members who reside in another household and whose income is not available to the family seeking enrollment, and dependent children.

(b) Documentation of the applicant's name and physical residence shall also be required. ~~((— displaying the applicant's name and address—))~~

(c) The ~~((plan))~~ HCA may request additional information from applicants for purposes of establishing or verifying eligibility, including Medicaid eligibility in chapter 74.09 RCW, premium responsibility or managed health care system selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in the ~~((plan))~~ BHP. Intentional submission of false information may result in disenrollment of the applicant and all enrolled family members, retroactive to the date upon which coverage began.

(3) Each family applying for enrollment must designate a ~~((participating))~~ managed health care system from which all enrolled family members will receive covered services. All applicants from the same family must receive covered services from the same managed health care system (except in cases where a subscriber, who is paying child support for his/her dependents, lives in another covered services area). No applicant will be enrolled for whom designation of a ~~((participating))~~ managed health care system has not been made as part of the application for enrollment. The administrator will establish procedures for the selection of managed health care systems, which will include conditions under which an enrollee may change from one managed health care system to another. Such procedures will allow enrollees to change from one managed health care system to another during open enrollment, or otherwise upon showing of good cause for the transfer.

(4) Except as provided in WAC 55-01-040~~((~~2~~))~~ (3), applications for enrollment will be reviewed by the ~~((plan))~~ HCA within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(5) Eligible applicants will be enrolled in the ~~((plan))~~ BHP in the order in which their completed applications, including all required documentation, have been received by the ~~((plan))~~ HCA, provided that the applicant also remits full payment of the first premium bill to the ~~((plan))~~ HCA by the due date specified by the ~~((plan))~~ HCA.

(6) Not all family members are required to apply for enrollment in the ~~((plan))~~ BHP; however, any family member for whom application for enrollment is not made at the same time that other family members apply may not subsequently enroll as a family dependent until the next open enrollment period available to that family member, unless that family member loses other health coverage. Eligible newborn and newly adopted children may be enrolled effective from the date of birth or physical placement with the adoptive parents for adoption, provided that application for enrollment is submitted to the ~~((plan))~~ HCA within sixty

days of the date of birth or such placement for adoption. A newly acquired spouse of an enrollee may apply for enrollment within thirty days of the date of marriage and, if found eligible by the ~~((plan))~~ HCA, will be enrolled on the first of a month following completion of the enrollment process by the ~~((plan))~~ HCA, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the ~~((plan))~~ HCA.

(7) ~~((Any-e))~~ Enrollees who disenroll(s) from the ~~((plan))~~ for reasons other than ~~((a) ineligibility due to an increase in gross family income or (b)))~~ coverage by another health care benefits program may not reenroll in the plan for a period of twelve months from the effective date of disenrollment. ~~((An enrollee who disenrolls because of ineligibility due to an increase in gross family income may reenroll in the event that gross family income subsequently falls to a level which qualifies the enrollee for eligibility.))~~ An enrollee who disenrolls because of coverage by another health care benefits program may reenroll in the event that the enrollee becomes ineligible for such other coverage, provided that the enrollee has been continuously covered since the date of disenrollment from the plan, and provides documentation of such continuous coverage to the plan. ~~Before any person shall be reenrolled in the plan, that person must))~~ BHP due to loss of eligibility may re-enroll provided they complete a new application for enrollment and ~~((must be))~~ are determined by the ~~((plan))~~ HCA to be otherwise eligible for enrollment as of the date of application. Enrollees who are disenrolled from BHP in accordance with WAC 55-01-060(2), except for loss of eligibility, and who do not maintain continuous coverage may not re-enroll for a period of twelve months from the effective date of disenrollment. Continuous coverage will be defined as coverage with no lapse greater than 90 days.

(8) The ~~((plan))~~ HCA may require any enrollee or applicant for enrollment in the ~~((plan))~~ BHP who appears to meet eligibility requirements for medical care under chapter 74.09 RCW to complete the eligibility determination process under chapter 74.09 RCW prior to enrollment or continued participation in the ~~((plan))~~ BHP.

(9) Once every six months, the ~~((plan))~~ HCA will request verification of information from enrollees ("recertification"), which may include a request to complete a new application form and submit required documentation. For good cause, the HCA may recertify on a more frequent basis. At recertification, enrollees will be required to report their gross family income for the ~~((most recent complete))~~ preceding calendar month, ~~((as of the recertification date specified by the plan, and to provide the same documentation of such income as required of applicants. ((The plan may request information more frequently from an enrollee for the purpose of verifying eligibility if the plan has good cause to believe that the enrollee's income, residence, family size or other eligibility criteria may have changed since the date on which information was last received by the plan. Enrollees shall be given at least twenty days from the date of any such information request to respond to the request. Failure to respond within the time designated in any information request shall result in a second request from the plan.))~~ Failure to respond within the time designated ~~((in any second request for information))~~ may result in disenrollment of the enrollee. Each enrollee is responsible for notifying the

~~((plan)) HCA~~ within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility. If, as a result of the eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee failed to inform the HCA of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the poverty level.

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

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

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-060 Disenrollment from the ((plan)) BHP. (1) An enrollee may disenroll effective the first day of any month by giving the ((plan)) HCA at least ten days prior written notice of the intention to disenroll. Reenrollment in the ((plan)) BHP shall be subject to the provisions of WAC 55-01-050(7). The administrator shall also establish procedures for notice by an enrollee of a disenrollment decision, including the date upon which disenrollment shall become effective. Nonpayment of premium by an enrollee or financial sponsor, including employer group, shall be considered an indication of the enrollee's or group's intention to disenroll from the ((plan)) BHP.

(2) The ((plan)) HCA may disenroll any enrollee from the ((plan)) BHP for good cause, which shall include: (a) Failure to meet the eligibility requirements set forth in WAC 55-01-040; ~~((loss of eligibility));~~ (b) nonpayment of premium; (c) repeated failure to pay copayments in full on a timely basis; ~~((failure to provide eligibility information necessary to determine whether the enrollee may be eligible for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan; failure to apply when such application is required by the plan to the department of social and health services for determination of eligibility for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan;))~~ (d) knowingly providing false information; (e) fraud or abuse ~~((including but not limited to serious misconduct));~~ (f) intentional misconduct; and (g) refusal to accept or follow procedures or medical treatment determined by a ((participating provider)) MHCS to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of the ((plan)) HCA that no professionally acceptable alternative form of treatment is available from the managed health care system, and the enrollee has been so advised by the managed health care system. The ((plan)) HCA shall provide the enrollee or legal guardian/parent of a child with advance written notice of its intent to disenroll the enrollee.

Such notice shall specify an effective date of disenrollment, which shall be at least ten days from the date of the notice, and shall describe the procedures for disenrollment, including the enrollee's right to appeal the disenrollment decision as set forth in WAC 55-01-070. Prior to the effective date specified, if the enrollee submits an ((grievance)) appeal to the ((plan)) HCA contesting the disenrollment decision, as provided in WAC 55-01-070(3), disenrollment shall not become effective until the date, if any, established as a result of the ((plan)) HCA's ((grievance)) appeal procedure, provided that the enrollee otherwise remains eligible and continues to make all premium payments when due; and further provided that the enrollee does not pose a threat of nonconsensual violent, aggressive or sexually aggressive behavior, assault or battery or purposeful damage to or theft of managed health care system property, or the property of staff or providers, patients or visitors while on the property of the managed health care system or one of its participating providers.

(3) Any ((applicant for enrollment)) enrollee ((in the plan)) who ((knowingly)) provides false information to the ((plan)) HCA or to a ((participating)) managed health care system may ((be disenrolled by the plan and may)) be held financially responsible for any covered services obtained ((from)) through the ((plan)) BHP. The administrator may apply other available remedies as well.

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

~~**WAC 55-01-070 ((Hearings and grievances.** The plan will develop procedures for the expeditious resolution of enrollees' grievances, and will require participating managed health care systems to do the same.~~

~~(1) If an enrollee has an grievance pertaining to a managed health care system, the enrollee shall exhaust the managed health care system's grievance procedure prior to requesting consideration of the grievance by the plan. The managed health care system's grievance procedure shall provide for expeditious resolution by managed health care system personnel with authority to require corrective action. There shall be a written reply from the managed health care system stating either the decision and its basis, or the reasons for failure to reach a decision, within thirty days of receipt of the written grievance. An enrollee has the right to request consideration of the grievance by the administrator if the final decision is adverse or if the written reply is not received within thirty days from the date the managed health care system received the written grievance.~~

~~(2) If an enrollee has a grievance pertaining to actions of the plan, the enrollee may submit the grievance to the plan for resolution by the plan's grievance procedure. A written description of the plan's grievance procedure will be provided to the enrollee upon enrollment, or at any time upon request. The plan's grievance procedure shall provide for resolution of the grievance within thirty days of receipt of complete information describing the grievance and its basis.~~

~~(3) An enrollee who is involuntarily disenrolled by the plan may contest the disenrollment by submitting a grievance to the plan, within ten days of the notice of disenrollment, for resolution by the plan's grievance procedure. The plan~~

shall issue and mail a written decision within thirty days of receiving the grievance.

~~(4) An individual whose application for enrollment in the plan is denied may contest the denial of enrollment by submitting a grievance to the plan, within ten days of the notice by the plan of such denial, for resolution by the plan's grievance procedure. The plan shall issue and mail a written decision within thirty days of receiving the grievance.~~

~~(5) If the plan's decision resulting from its grievance procedure is adverse to an enrollee or applicant, he or she may, within fifteen days of receiving notice of the grievance decision, request a hearing under chapters 34.04 and 34.12 RCW in order to contest the plan's decision.)~~ **Appeals and Mediation of grievances.** (1) The following decisions by the BHP may be appealed pursuant to this section:

(a) A determination that an applicant for enrollment as a subsidized enrollee is ineligible pursuant to WAC 55-01-040;

(b) A decision to disenroll an enrollee pursuant to WAC 55-01-060.

(2) Appeals under subsection (1) shall be conducted as brief adjudicative proceedings pursuant to RCW 34.05.482 through 34.05.494 and WAC 182-16-060.

(3) Disputes arising between enrollees and the managed health care system in which they are enrolled are considered to be contractual disputes between those parties. The HCA offers a mediation service aimed at resolving those disputes as quickly, efficiently and fairly as possible. Both enrollees and managed health care systems are expected, as a condition of participation in the BHP, to participate fully and cooperatively in this mediation process once invoked by either party to such dispute. In the event the dispute cannot be resolved by mediation, and both enrollee and the managed health care system agree, the HCA will designate a person to act as binding arbitrator of the dispute.

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

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

WSR 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.

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-010 Authority and purpose. These rules are adopted under ~~((the authority of))~~ RCW 29.19.070 ~~((for the purposes of assuring))~~ to provide uniformity in the conduct of ~~((a))~~ the presidential ~~((preference))~~ primary and to facilitate the ~~((operation of the procedures mandated by that))~~ amendments to chapter 29.19 RCW in Chapter 20, Laws of 1995, 1st. Special Session and the national and state rules of the major political parties.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-020 Definitions. As used in this chapter:

(1) "County auditor" means the county auditor in a noncharter county or the officer, irrespective of title, having the overall responsibility to maintain voter registration information and conduct state and local elections in a charter county, and his or her deputies or staff where the context indicates;

(2) ("~~Northwest states~~") means the states of Washington, Oregon, Idaho, Montana, and Alaska;

(3) "~~Regional primary~~" means whenever Washington and at least one other northwest state hold a presidential primary on the same day;

(4) "~~Major political party~~" means a political party of which at least one nominee for president, vice-president, United States senator, or state-wide office received at least

five percent of the total vote cast at the last preceding state general election for that office in an even-numbered year(~~(; or as defined by RCW 29.01.090 if that definition is different;~~

~~((5))~~ (5) "Members of a political party" means those persons who, in conjunction with a presidential primary, sign a statement of intent to file a nominating petition or sign a nominating petition, and indicate on that statement or petition that they consider themselves to be members of a particular major political party);

~~((6))~~ (3) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a presidential (~~(preference))~~ primary;

(b) A facsimile of the contents of a particular ballot, whether printed on a paper ballot or ballot card or as part of a voting (~~(machine or voting))~~ device;

(c) A physical or electronic record of the choices of an individual voter at a presidential (~~(preference))~~ primary;

(d) A physical document on which the voter's choices are to be recorded;

~~((7))~~ (4) "Paper ballot" means a piece of paper on which the ballot for a presidential primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

~~((8))~~ (5) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure, and that is to be tabulated on a (~~(vote tallying))~~ vote tallying system;

~~((9))~~ (6) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a presidential (~~(preference))~~ primary or to canvass votes cast in a presidential (~~(preference))~~ primary;

~~((10))~~ (7) "Voting device" means a piece of equipment used for the purpose of marking, or to facilitate the marking, of a ballot to be tabulated by a vote tallying system, or a piece of mechanical or electronic equipment used to directly record votes and to accumulate results for a number of issues or offices from a series of voters; and

~~((11))~~ (8) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes;

(9) "Ad-hoc committee" means the committee created under RCW 29.19.020 that has the authority to change the date of the presidential primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-030 Presidential (~~(preference))~~ primary—When held. (~~(Washington's)~~) A presidential (~~(preference))~~ primary shall be held on the fourth Tuesday in May of each year in which a president of the United States is to be elected, or on (~~(a)~~) the alternate date selected by the (~~(secretary of state pursuant to the provisions of))~~ ad-hoc committee under RCW 29.19.020(~~(;))~~ and WAC 434-75-040(~~(, and 434-75-050)).~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-040 Presidential (~~(preference))~~ primary—Changing the date. (1) The (~~(secretary of state))~~ ad-hoc committee may, (~~(pursuant to the provisions of))~~ under RCW 29.19.020 (~~(and in the manner provided by WAC 434-75-050)),~~ change the date of the presidential (~~(preference))~~ primary (~~(in order to advance the cause of a regional primary))~~ from the date specified in RCW 29.19.020 to any other date recommended under that statute.

(2) The secretary of state shall convene the ad-hoc committee when either:

(a) The secretary of state proposes an alternate date on which to hold the presidential primary; or

(b) The state committee of a major political party delivers to the secretary of state a written proposal to change the date of the presidential primary.

(3) The secretary of state shall notify all of the members of the ad-hoc committee in writing, at least seven days in advance of the meeting, of the time and place of the meeting to consider changes to the date of the presidential primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-050 Procedures to be followed when changing primary date. (~~(In the event the secretary of state chooses to change))~~ If the date of the presidential primary is changed under RCW 29.19.020 and WAC 434-75-040 from the fourth Tuesday in May to another date, (~~(he or she))~~ the secretary of state shall (~~(, not later than June 1 of the odd-numbered year immediately preceding the year in which a president is to be elected,))~~ promptly notify the (~~(following persons or organizations))~~ the county auditors and the chairperson of the national committee of each major political party, in writing, of (~~(his or her intent to change the))~~ that date(~~(;~~

(1) The governor of the state of Washington;

(2) The speaker of the Washington state house of representatives;

(3) The president of the Washington state senate;

(4) The county auditors of the state of Washington;

(5) The chairpersons of each major political party's state central committee;

(6) The chairpersons of each major political party's national committee;

(7) The secretaries of state of the northwest states;

(8) The Federal Election Commission;

(9) Any other person or organization he or she deems appropriate.

Not later than thirty days following the notification of intent to change the date, the secretary shall notify the above listed persons of his or her final decision regarding the date of the primary).

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-060 Designation of candidates by secretary of state. Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, ~~((all persons and organizations listed in WAC 434-75-050 and all))~~ the county auditors, the chairperson of each major political party, and each of the candidates ~~((so designated))~~ whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC 434-75-070.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-070 Removal from list of designees. Each candidate designated by the secretary of state shall appear on the primary ballot unless, not later than thirty-five days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify ~~((all persons and organizations notified under the provisions of WAC 434-75-050))~~ the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates ~~((;))~~ of any names removed from the list of candidates for the presidential primary under this section.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-080 Petition process for ballot access. Members of a major political party may petition the secretary of state to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-75-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state ~~((pursuant to the provisions of))~~ under WAC 434-75-060. Such petitions must be filed with the secretary of state not later than the thirty-ninth day preceding the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-090 Form of the nominating petition. Nominating petitions shall be addressed to the secretary of state, be uniform in size, and shall contain the following:

(1) The name of the candidate and his or her political party;

(2) A statement that the persons signing the petition are registered voters of the state of Washington, that they are ~~((members of))~~ affiliated with the political party of the

person on whose behalf the petition is filed, and that they have only signed the petition once;

(3) Numbered lines for no more than twenty signatures;

(4) Space for the signature, printed name, and address at which each petition signer is registered to vote, including county of residence;

(5) Space for the signer to list the name or number of his or her precinct, if known;

~~((6) Space for the signer to indicate his or her party affiliation)).~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-75-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-75-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW 29.79.200 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and any multiple signatures from the same voter. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-110 Determination of insufficient signatures. In the event the secretary of state determines that the petition contains insufficient valid signatures he or she shall notify the person filing the petition and the candidate on whose behalf the petition was filed. Persons so notified may submit additional signatures in support of the nomination as long as those signatures are submitted prior to the deadline established by RCW 29.19.030. ~~((The secretary's final determination of the sufficiency or insufficiency of any petition filed pursuant to the provisions of WAC 434-75-080 may be appealed to the superior court of Thurston County. The court shall promptly hear such challenges and the superior court decision shall be final.))~~

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-120 Certification of candidates. In the event the secretary determines a petition bears sufficient signatures he or she shall include the name of ~~((the))~~ that candidate ~~((concerned on his or her))~~ in the official certification of candidates to the county auditors. This certification shall be ~~((done as soon as possible following the last day for candidates to withdraw, but in any event))~~ completed and transmitted to the county auditors not later than the ~~((fourth Tuesday))~~ thirty-fourth day prior to the primary. ~~((The~~

~~secretary shall send a copy of this certification to all persons notified of the original list of designated candidates.)~~

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 3/26/91, effective 9/26/91)

WAC 434-75-130 Conduct of the presidential (~~preference~~) primary. All procedures relevant to the conduct of a presidential (~~preference~~) primary (~~pursuant to~~) under chapter 29.19 RCW, including the form of the ballot, the arrangement of candidate names, and the processing of absentee ballots and vote-by-mail ballots shall be the same as the procedures for the conduct of any partisan primary within the state except as may be modified by the rules of the national or state party of a major political party, chapter 29.19 RCW, or the rules (~~contained~~) in this chapter.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-140 Party declaration by voter. (1) Each registered voter desiring to participate in the presidential (~~preference~~) primary shall, prior to being issued either an absentee or a regular ballot, (~~sign a statement in substantially the following form:~~

~~I, the undersigned registered voter of the state of Washington, hereby declare my desire to participate in the presidential preference primary of the party designated on this form, and I further request that the ballot of that party be provided to me.~~

.....
Signature of voter Address if different from registration address))

be given the opportunity to subscribe to any declaration provided under the national or state political party rules of a major political party for participation in the presidential nominating process of that party.

(2) For the 1996 presidential nominating process, the state democratic party has adopted the following declaration:

"I declare that I consider myself to be a Democrat and I have not participated in the nominating process of any other political party for the 1996 presidential election".

(3) For the 1996 presidential nominating process, the republican state party has adopted the following declaration:

"I declare that I consider myself a Republican and I have not participated in the 1996 precinct caucus system of any other party".

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-150 Ballot request form used at the polling place. (1) The (~~ballot request statement required by RCW 29.19.050 and~~) political party declaration provided under WAC 434-75-140, when provided to a voter desiring to vote at a polling place, may appear on either:

(a) A paper form of uniform size for each voter. The form shall identify the presidential primary, the major political party, and the date, and shall have space for the voter to sign his or her name and address (~~and shall also provide a method whereby the voter can indicate party preference~~). The voter's precinct shall be clearly indicated on the form. Multiple-part reproducible forms may be used for this purpose. The signed ballot request forms shall be collected by the precinct election officers and transmitted to the county auditor at the end of the voting day; or

(b) A (~~special~~) format printed in the poll book which would permit the voter to sign his or her name and address and to indicate his or her political party preference, if any; or

(c) Separate poll books for each major political party distinct from the poll books for voters who do not subscribe to the declaration of any major political party.

(2) The county auditor shall provide appropriate instructions for the precinct election officers regarding the handling, maintaining, and transportation of the (~~ballot request forms or statements~~) political party declarations.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-160 Ballot—Separation of political parties. Separate ballots for each major political party shall be (~~maintained~~) provided as follows:

(1) Where a paper ballot is used, a separate ballot shall be prepared for each major political party containing the names of the candidates of that party certified by the secretary of state (~~pursuant to the provisions of~~) under WAC 434-75-120;

(2) Where a ballot card is used, separate ballot cards shall be provided for each major political party (~~and for any alternate ballot issued pursuant to the provisions of WAC 434-75-200. Additionally, counties using voting systems which have ballot pages shall use a separate page or pages for each party~~). Counties (~~may also~~) shall employ separate voting devices (~~to distinguish the types of ballots used~~) within (~~a precinct~~) each polling place for each major political party. Ballot cards must contain a machine readable pre-punch or a machine readable ballot code to distinguish, within each precinct, each ballot type used(~~;~~

(3) Where a voting device is used that directly records the vote on mechanical equipment or on direct recording electronic equipment, separate voting labels shall be prepared for each major political party. The labels with the slate of candidates for each major political party shall be easily discernible on the voting panel. The mechanical voting device or direct recording electronic voting device shall be programmed so that the individual voter shall be able to vote only for candidates listed on the slate of the major political party indicated on the ballot request form)).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-180 Ballots—Arrangement of names—Instructions. (1) Voters who do not make a political party declaration under WAC 434-75-140 shall be issued a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120 listed alphabetical-

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ly under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

(2) Voters who make a political party declaration under WAC 434-75-140 shall be issued a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120 for ((a)) that party's nomination ((for the office of president shall be listed alphabetically in a column on the ballot)) listed alphabetically under the designation of the office (president of the United States) together with any other issues being submitted to the voters at special elections held in conjunction with the presidential primary.

(3) On paper ballots, a printed box shall be placed adjacent to each candidate's name. Provision for the voter to write-in the name of another candidate shall be provided on each ballot. ((Unless the voter indicates otherwise, or unless the write-in vote is made for a person whose name appears on the ballot of another political party, the political party of the person whose name is written in shall be presumed to be the same as that indicated on the ballot request form.)) The names of candidates on the presidential ((preference)) primary ballot shall not be rotated.

(4) The ballot shall contain instructions to the voters in substantially the following form:

"VOTE FOR ONE. ((IF YOU VOTE FOR MORE THAN ONE CANDIDATE OR IF YOU VOTE FOR THE CANDIDATE OF A PARTY OTHER THAN THE PARTY INDICATED ON YOUR BALLOT REQUEST FORM, YOUR VOTE IN THE PRESIDENTIAL PREFERENCE PRIMARY WILL NOT BE COUNTED)) If you vote for more than one candidate for this office, your vote in the presidential primary will not be counted."

The instructions shall be printed large enough to be easily read by the voter.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-190 Special election held in conjunction with the presidential ((preference)) primary. If a special election is scheduled concurrently with the presidential ((preference)) primary ((pursuant to)) under RCW 29.13.010 or 29.13.020, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures ((in addition to)) separately from the presidential ((preference)) primary candidates. ((However, nothing in this section shall prevent the use of an alternate ballot for special elections as provided by WAC 434-75-200.))

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-210 Provisions regarding ballots applicable to absentees. Wherever applicable, the provisions regarding the arrangement and form of the presidential ((preference)) primary ballot shall apply to both absentee ballots and to those ballots used at the polling place.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-220 Absentee ballot request form. Any absentee ballot request form produced for use in the presidential primary must include ((a space)) an option for the voter to ((indicate in which)) subscribe to the declaration of a major political party under WAC 434-75-140 and participate only in the presidential primary ((he or she desires to participate, as provided by RCW 29.19.050 and WAC 434-75-140)) of that party. The absentee request shall also contain a statement in substantially the following form:

"((Unlike the regular state primary,)) Under Washington's presidential ((preference)) primary law, you may ((only request the)) subscribe to a declaration required by the rules of a major political party and receive a ballot containing only the candidates of ((one)) that political party. ((Please indicate below which party ballot you are requesting. You will be sent)) The rules of that major political party may provide that votes cast by persons subscribing to this declaration at the presidential primary be used to determine the allocation of delegates and alternates from this state to the national nominating convention of that party. If you wish to receive a ballot containing only the names of presidential candidates ((from)) for one political party, be sure to sign the declaration for that party."

Absentee ballot requests for the presidential primary shall in all other respects contain the information required, and be in the form specified, by chapter 29.36 RCW and chapter 434-40 WAC. The secretary of state shall design an absentee ballot application form for the presidential ((preference)) primary and shall provide this form to each county auditor, and to any other person or organization, upon request((, a sample of that request form)).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-230 Incomplete absentee ballot requests. ((Except as otherwise provided by these rules,)) Incomplete absentee ballot applications for the presidential primary shall be handled in the manner provided by WAC 434-40-130 through 434-40-160.

AMENDATORY SECTION (Amending WSR 92-08-032, filed 3/24/92, effective 4/1/92)

WAC 434-75-240 ((Lack of party designation)) Processing absentee ballot requests. (1) In the event the auditor receives a written request for an absentee ballot that does not include ((party designation)) any signed political party declaration or receives a phone request for an unaffiliated absentee ballot, he or she shall ((either attempt to obtain a signed party designation in the manner provided by WAC 434-40-130(2), or he or she shall)) send ((the ballots of each major political party to the voter, together with instructions in substantially the following form:

Dear Voter:

We are in receipt of your Presidential Preference Primary absentee ballot application. However, your application is incomplete in that you did not indicate which political

party's ballot you are requesting. Under Washington's Presidential Primary law, this information must be provided prior to your ballot being counted. We have, therefore, enclosed the ballots of each political party. You are entitled to vote the ballot of only one political party, and that must be the party indicated on the party designation/request form. Please complete the enclosed information and return it together with, but separate from, the appropriate party ballot. Do not place the party request form in the ballot security envelope.

I hereby request a ballot for the following major political party: (check one)

..... DEMOCRATIC REPUBLICAN
*
(Signature of Voter)

Each county auditor shall devise a method of ensuring that the ballot returned by the voter is of the party indicated on the request form without compromising the secrecy of the ballot that voter a ballot containing the names of all of the candidates certified by the secretary of state under WAC 434-75-120.

(2) In the event the auditor receives a phone request for an absentee ballot of a major political party, he or she shall send the voter a ballot containing the names of all of the candidates of that party certified by the secretary of state under WAC 434-75-120. The auditor shall include with the ballot and return envelopes the appropriate political party oath together with instructions for executing and returning the signed oath. The political party oath may be affixed to the return envelope or may be on a separate piece of paper to be returned separately from the security envelope.

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

AMENDATORY SECTION (Amending WSR 92-08-032, filed 3/24/92, effective 4/1/92)

WAC 434-75-250 Ongoing absentee voters. (1) Each county auditor shall, prior to ~~((each))~~ the presidential ~~((preference))~~ primary, ~~((either:~~

~~(1) Send to each ongoing absentee voter the ballots of each major political party, together with instructions and a ballot request form similar to those specified in WAC 434-75-240; or~~

~~(2))~~ send a ballot request form similar to the one provided under WAC 434-75-220 to each ongoing absentee voter and to all voters in vote-by-mail precincts in advance of the presidential ~~((preference))~~ primary, ~~((requesting that the voter indicate on that form which party))~~ giving those voters the opportunity to request a ballot ~~((he or she desires. The form may also have a space for the voter to indicate that he or she does not desire to participate in the presidential preference primary. If such an indication is received from the voter, no presidential preference primary ballot shall be sent))~~ containing only the presidential candidates of one major political party. In the event ~~((a))~~ an ongoing absentee voter does not return a ballot request form ~~((or a statement declining to participate in the presidential preference primary~~

~~in advance of))~~ at least twenty-five days before the date ~~((for mailing ongoing absentee ballots, no ongoing absentee ballot))~~ of the primary, that voter shall be sent ~~((Such voters who subsequently express a desire to vote in the presidential preference primary may request a regular absentee ballot as provided by state law and these rules))~~ a ballot containing all of the candidates certified by the secretary of state under WAC 434-75-120.

(2) If the auditor receives a written or phone request for the ballot of a major political party from any ongoing absentee voter or voter in a vote-by-mail precinct to whom an unaffiliated ballot has already been sent, that request shall be processed as provided under WAC 434-75-240(2).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-260 Canvassing and tabulation of presidential primary absentee ballots. Unless otherwise provided by law, by the rules of the national or state party of a major political party, or by these rules, absentee ballots for the presidential ~~((preference))~~ primary shall be processed, canvassed, and tabulated, by legislative and congressional district, in the same manner as absentee ballots for other elections.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-270 Vote-by-mail precincts. Wherever applicable, presidential ~~((preference))~~ primary ballots for voters in vote-by-mail precincts shall be issued and processed in the same manner as ballots issued to ongoing absentee voters, as provided by statute, by the rules of the national or state committee of a major political party, and by these rules.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-280 Ballots not tabulated. The county auditor shall not count votes cast for the office of president of the United States in the presidential primary ~~((ballots))~~ in the following cases:

- ~~((Where the voter has no request on file indicating which political party ballot he or she requested;~~
- ~~((Where the voter has voted the ballot of a party other than the one he or she requested;~~
- ~~((Where the voter has attempted to vote more than once for that office;~~
- ~~((Where the voter has voted for candidates of more than one political party, in which case all such votes shall be rejected;~~
- ~~((Where a write-in vote is made for a person who has declined the nomination as provided by WAC 434-75-070;~~
- ~~((Where a write-in vote is made with the incorrect party designation;~~
- ~~((Where the person issued a ((questioned)) special or challenged ballot does not otherwise satisfy the constitutional or statutory requirements for voting.~~

In those instances where the auditor is not sure whether a ballot or part of a ballot should be counted, he or she shall

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refer that ballot to the county canvassing board for their determination. The auditor shall maintain a record of those ballots not counted and the reason why they were not part of the official canvass of the primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-290 Canvassing and certification of presidential (~~(preference)~~) primary. County canvassing boards shall certify the results of the presidential primary, by congressional district, not later than the (~~(seventh)~~) tenth day following the primary. The county auditor shall send one original copy of the returns by mail (~~(and one copy by electronic facsimile transmission or by messenger)~~) to the secretary of state on the same day the returns are certified. Wherever applicable, the other procedures established by chapter 29.62 RCW for the canvassing of state primaries shall apply to the canvassing of a presidential (~~(preference)~~) primary. Not later than the (~~(tenth)~~) twentieth day following the presidential (~~(preference)~~) primary, the secretary of state shall notify the (~~(persons and organizations listed in WAC 434-75-050)~~) candidates and the chairperson of the national and state committees of each major political party of the votes cast for each candidate listed on the ballot (~~(of each major political party,)~~) and of the write-in votes cast for any (~~(candidate receiving at least five percent of the votes cast for)~~) qualified write-in candidates (~~(of that party, and the aggregate total of votes cast for all write-in candidates receiving less than five percent of the total votes cast)~~).

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-310 Mandatory recount provisions do not apply. The provisions of (~~(chapter 29-64)~~) RCW 29.64.015 regarding mandatory recounts do not apply to (~~(the conduct of)~~) a presidential (~~(preference)~~) primary. However, recounts may be requested (~~(pursuant to)~~) under the other provisions of that chapter

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

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-320 Political party preference data—Transmittal to the major political parties. No later than thirty days following the certification of the returns of the presidential (~~(preference)~~) primary by the secretary of state, the county auditor shall provide to the county and state (~~(central)~~) committee of each major political party, at actual reproduction cost, the names and addresses of those voters participating in the presidential primary (~~(for)~~) of that major political party. This may be accomplished by either:

(1) Integrating the ballot request and party preference data with the (~~(regular)~~) county voter registration file and producing a registered voter report containing the consolidated data in either machine-readable or printed format, which is provided to each major political party; or

(2) Providing to each major political party copies of the (~~(ballot request forms)~~) political party declarations that indicate the primary in which the voter participated (~~(segregated by precinct)~~); or

(3) Providing each major political party with a copy of the poll book pages upon which the voter has indicated the political party primary in which he or she participated (~~(segregated by precinct)~~) and a separate report covering the (~~(preferences)~~) declarations of absentee voters.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-330 Retention of election material. The county auditor shall maintain all presidential (~~(preference)~~) primary material, including ballot request forms, absentee ballot envelopes, poll books, and ballots, for a period of twenty-two months following the presidential primary. (~~(Except for the ballot request form,)~~) The auditor (~~(shall, within)~~) may, at any time after sixty days following the certification of the returns by the secretary of state, remove from his or her automated voter registration files any (~~(other)~~) record of the party designation of any voter casting a ballot at the presidential (~~(preference)~~) primary.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-340 Claims for reimbursement. Following the presidential (~~(preference)~~) primary, each county auditor shall provide to the secretary of state a completed claim for reimbursement of expenses incurred by the county in conducting the primary. This cost shall be prorated with any other jurisdictions holding special elections in conjunction with the primary under RCW 29.13.045. The procedures for allocating such costs shall be the same as those prescribed by the office of the state auditor for election cost allocations to the state, cities, towns, and special purpose districts.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-350 Time for submission and payment of claims for reimbursement. Claims for reimbursement and supporting documents shall be submitted to the secretary of state not later than sixty days following the certification of the returns of the presidential (~~(preference)~~) primary by the secretary of state. The secretary of state shall compile such claims and present them to the state legislature at the next succeeding legislative session. Upon the granting of the relief claims by the legislature the secretary of state shall issue a warrant to each county submitting a claim.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|--|
| WAC 434-75-170 | Secretary of state to designate color of ballots and election materials; |
| WAC 434-75-200 | Questioned ballots/alternate ballots — Use by poll workers |

when voter declines to identify party; and
 WAC 434-75-300 Canvassing and tabulation of other special elections.

WSR 96-04-001
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3942—Filed January 24, 1996, 1:22 p.m., effective February 1, 1996, 12:01 a.m.]

Date of Adoption: January 24, 1996.

Purpose: Implements an option in Washington state's AFDC state plan to continue AFDC-E benefits for up to a six-month period when the qualifying parent works one hundred hours or more per month and the child remains otherwise eligible.

Citation of Existing Rules Affected by this Order: Amending WAC 388-215-1390 Deprivation—Redetermination of eligibility when deprivation ceases.

Statutory Authority for Adoption: RCW 74.12.036.

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: As required by RCW 74.12.036, the department must amend WAC 388-215-1390 to select a new state option in Washington's AFDC state plan to eliminate the one hundred hour rule for AFDC-E clients for up to a six-month period. This state option will be followed by permanent elimination of the one hundred hour rule for about 90% of AFDC-E clients through the department's approved federal waiver (target date April 1, 1996). Implementing this state option will be client beneficial by eliminating the rule as soon as possible, for the greatest number of clients for the longest possible amount of time. Adoption of this rule will also maximize available federal funding for the AFDC-E program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, 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 1, repealed 0.

Effective Date of Rule: February 1, 1996, 12:01 a.m.
 January 24, 1996

Merry Kogut, Supervisor
 Rules and Policies Assistance Unit

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

WAC 388-215-1390 Deprivation—Redetermination of eligibility when deprivation ceases. When deprivation due to death, absence, incapacity, or unemployment ceases and the child remains in need, the department shall determine if another basis for deprivation exists.

(1) If it appears that another basis for deprivation may exist, but additional information or verification is needed to establish eligibility, the department shall:

(a) Request the necessary information or verification from the client following rules in chapter 388-212 WAC; and

(b) Continue assistance during the eligibility redetermination process.

(2) If deprivation ceases solely due to the qualifying parent working one-hundred hours or more a month, the department shall extend AFDC-E benefits for up to an additional six-month period, if the child remains otherwise eligible.

(3) If no other basis for deprivation exists, the department shall:

(a) Determine the child ineligible for AFDC according to WAC 388-245-1510; and

(b) Terminate assistance following rules in chapter 388-245 WAC.

WSR 96-04-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 96-14—Filed February 1, 1996, 11:20 a.m., effective February 3, 1996, noon]

Date of Adoption: February 1, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-04000B; and amending WAC 220-33-040.

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: Three consecutive years of poor smelt returns to the Columbia River and tributaries and the outlook for 1996 is for a less than average return, which requires a reduction in the commercial smelt fishery.

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: February 3, 1996, noon.

February 1, 1996
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-33-04000B Commercial smelt below Bonneville Dam. Notwithstanding the provisions of WAC 220-33-040:

(1) Effective February 3, 1996 through March 31, 1996, it shall be unlawful to take, fish for, or possess smelt in the Columbia River below Bonneville Dam except during the open weekly fishing periods described below:

OPEN FISHING PERIOD:

Noon Monday to 6:00 p.m. Friday

(2) Effective February 3, 1996 through March 31, 1996, it shall be unlawful to take, fish for, or possess smelt in the tributaries below Bonneville Dam except during the open weekly fishing periods described below:

OPEN FISHING PERIOD:

Noon Sunday to 6:00 p.m. Thursday

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 1996:

WAC 220-33-04000B Commercial smelt below Bonneville Dam

**WSR 96-04-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 96-15—Filed February 2, 1996, 4:48 p.m., effective February 6, 1996, 12:01 a.m.]

Date of Adoption: February 2, 1996.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300E; 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 amounts of green sea urchins exist in Districts 3 and 4; harvestable amounts of red sea urchins exist in District 4.

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: February 6, 1996, 12:01 a.m.

February 2, 1996
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-52-07300E 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 February 6, 1996. The maximum daily landing for a vessel is 1,600 pounds of green urchins. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Red sea urchins: Sea Urchin District 4 is open only on February 7, 1996. The maximum daily landing for a vessel is 900 pounds of red sea urchins. It is unlawful to harvest red sea urchins larger than 5.0 inches or smaller than 3.25 inches.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 8, 1996.

WAC 220-52-07300E Sea urchins. (96-15)

**WSR 96-04-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 96-12—Filed February 2, 1996, 4:50 p.m.]

Date of Adoption: February 1, 1996.

Purpose: Commercial fishing regulations.

EMERGENCY

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S; and amending WAC 220-32-051.

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 numbers of sturgeon are available in the Columbia River between Bonneville and McNary dams. This rule is consistent with the recommendations of the Columbia River Compact meeting of January 30, 1996, and sturgeon management task force catch guidelines.

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 31, 1996

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-32-05100S Columbia River salmon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-051, and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, effective immediately, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas (SMCRA) 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm springs, Umatilla or Nez Perce treaties may fish or possess salmon, sturgeon and shad under the following provisions:

(a) Open for salmon, sturgeon and shad:

Noon February 1, 1996 to 4:00 p.m. March 16, 1996 closed noon Saturday to noon Monday weekly through February 23, 1996. Beginning February 24, 1996 closed 4:00 p.m. Saturday to noon Monday weekly through remainder of season.

(b) Open Area: SMCRA 1F, 1G, and 1H

(c) Mesh: No mesh restriction

(2) Notwithstanding the provisions of WAC 220-32-058, closed areas at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia river between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line

at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:00 p.m. March 16, 1996:

WAC 220-32-05100S Columbia River salmon seasons above Bonneville.

WSR 96-04-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Wildlife)

[Order 96-09—Filed February 5, 1996, 11:20 a.m., effective March 16, 1996, 12:01 a.m.]

Date of Adoption: February 3, 1996.

Purpose: Fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900M; 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: The harvest of wild steelhead by recreational anglers needs to be restricted to ensure that the escapement goal is met and that the fishery does not exceed its allocation.

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: March 16, 1996, 12:01 a.m.

February 3, 1996

Mitchell Johnson

Chairman

unlawful to take, fish for, or possess game fish from those waters of the Hoh River from the mouth to the South Fork and in the South Fork outside of the Olympic National Park Boundary.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 16, 1996:

WAC 232-28-61900M Washington game fish seasons and catch limits—Hoh River.

NEW SECTION

WAC 232-28-61900M Washington game fish seasons and catch limits — Hoh River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 16, 1996 through 11:59 p.m. April 15, 1996 it shall be

WSR 96-04-006
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—January 24, 1996]

SPECIAL MEETING NOTICE
TIME CHANGE

The Edmonds Community College board of trustees will meet in executive session Friday, January 26, 1996, 4:30-7:30 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 96-04-011
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Egg Commission)
 [Memorandum—January 26, 1996]

WASHINGTON EGG COMMISSION
MEETING DATES SCHEDULE FOR 1996

January 9, 1995 [1996]	Fife, Washington
September 5, 1996	Olympia - Board Meeting and Nominations Meeting
December 11, 1996	Fife, Washington

WSR 96-04-012
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 24, 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.

The following schedule lists all 1996 Department of Environmental Health faculty meetings. Regular meetings will be held at 4225 Roosevelt Way, in the 2nd Floor Conference Room. You will be notified if changes occur.

Friday, January 5	12:00 noon-2:00 p.m., F-348
Friday, February 9	12:00 noon-2:00 p.m., Roosevelt
Friday, March 8	12:00 noon-2:00 p.m., Roosevelt
Friday, April 12	12:00 noon-2:00 p.m., Roosevelt
Friday, May 10	12:00 noon-2:00 p.m., Roosevelt
Friday, June 14	12:00 noon-2:00 p.m., Roosevelt
Friday, July 12	12:00 noon-2:00 p.m., Roosevelt
Friday, August 9	12:00 noon-2:00 p.m., Roosevelt
Friday, September 13	12:00 noon-2:00 p.m., Roosevelt
Friday, October 11	12:00 noon-2:00 p.m., Roosevelt
Friday, November	TBA
Friday, December 13	12:00 noon-2:00 p.m., Roosevelt

To request disability accommodations, contact the Office of the ADA Coordinator, at least ten days in advance of the event at 543-6450 (voice), 543-6452 (TDD), 685-3885 (FAX), access @u.washington.edu (E-mail).

WSR 96-04-014
NOTICE OF PUBLIC MEETINGS
HEALTH CARE
POLICY BOARD
 [Memorandum—January 26, 1996]

The Health Care Policy Board will hold a special meeting on Monday, January 29, 1996, at 5:30 p.m., in the Insurance Building, 3rd Floor Conference Room, 302 14th Avenue, Olympia, WA.

During the 1996 legislative session, the board will hold meetings once a week on Mondays. All meetings will begin at 4:00 p.m., and will be held in the Insurance Building, 3rd Floor Conference Room, 302 14th Avenue, Olympia, WA.

Meeting dates, times and locations are subject to change, due to unforeseen circumstances.

WSR 96-04-016
NOTICE OF PUBLIC MEETINGS
ARTS COMMISSION
 [Memorandum—January 29, 1996]

Meeting Schedule

Dates	Location
February 28, 29, and March 1, 1996	Olympia
May 29-31, 1996	Walla Walla
August 14-16, 1996	Olympia
November 6-8, 1996	Seattle

Special meeting to be called pursuant to chapter 42.30 RCW.

If you have any questions, please call Gena M. Anderson, Arts Program Assistant, (360) 586-5347.

WSR 96-04-017
NOTICE OF PUBLIC MEETINGS
JOINT CENTER FOR
HIGHER EDUCATION
 [Memorandum—January 25, 1996]

Pursuant to the Open Public Meetings Act, chapter 42.30 RCW, listed below for publication in the Washington State Register are the dates, as approved December 13, 1995, by the Joint Center for Higher Education (JCHE) Board, for 1996 regular meetings of the JCHE board.

Said meetings will begin at 7:00 a.m. on the scheduled dates in the SIRT Building, 665 North Riverpoint Boulevard, Rooms 407 and 409, Spokane, WA.

- January 10, 1996
- February 14, 1996
- March 13, 1996
- April 10, 1996
- May 8, 1996
- June 12, 1996
- July 10, 1996
- August 14, 1996
- September 11, 1996
- October 9, 1996

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November 13, 1996
December 11, 1996

WSR 96-04-032
ATTORNEY GENERAL'S OFFICE

[Filed February 2, 1996, 1:02 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S
OPINION**

WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by February 28, 1996. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by February 28, 1996, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests.

95-01-01 Request by Pam Roach, State Senator

Is the city of Federal Way required to accept as lateral transfers, any employees of the King County Department of Public Safety (King County Police) who will be laid off as a result of Federal Way's decision to form its own police department even though Federal Way incorporated prior to adoption of RCW 35.13.360 by the State Legislature and created its own police department subsequently?

WSR 96-04-041
NOTICE OF PUBLIC MEETINGS
BENTON COUNTY
CLEAN AIR AUTHORITY

[Memorandum—February 1, 1996]

We would like to publish our "regular" board meetings in the state register as provided for in RCW 34.08.040. The meetings are held on the third Thursday of each month at 5600 Canal Place, Kennewick, WA 99336. The meetings begin at 7:00 p.m.

The contact person for information is Terry Flores and can be reached at (509) 943-3396.

WSR 96-04-028
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed February 1, 1996, 1:05 p.m.]

Effective April 1, 1996, chapter 50-60 WAC will be recodified as chapter 208-660 WAC.

Mark Thomson
Assistant Director
Division of Consumer
Services and Administration

WSR 96-04-029
RULES COORDINATOR
ARTS COMMISSION

[Filed February 1, 1996, 4:30 p.m.]

The Washington State Arts Commission Rules Coordinator is Karen Kamara Gose, Executive Director, 234 East 8th Avenue, P.O. Box 42675, Olympia, WA 98504-2675.

Gena M. Anderson
Arts Program Assistant

WSR 96-04-030
NOTICE OF PUBLIC MEETINGS
PUBLIC DISCLOSURE COMMISSION

[Memorandum—January 31, 1996]

The Public Disclosure Commission has cancelled its regular meeting scheduled for Tuesday, February 27, 1996. A special meeting will be held on Tuesday, February 20, 1996.

WSR 96-04-031
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH

(Chiropractic Quality Assurance Commission)

[Memorandum—December 5, 1995]

Meeting Dates for 1996

January 11, 1996	Fife Executive Inn Fife, Washington
January 18, 1996 (exam)	WestCoast Sea-Tac Hotel Seattle, Washington
March 14, 1996	Olympia, Washington
April 18, 1996 (exam)	WestCoast Sea-Tac Hotel Seattle, Washington
May 9, 1996	Wenatchee, Washington
July 11, 1996	Seattle, Washington
July 18, 1996 (exam)	WestCoast Sea-Tac Hotel Seattle, Washington
September 12, 1996	Olympia, Washington
October 17, 1996 (exam)	WestCoast Sea-Tac Hotel Seattle, Washington
November 14, 1996	Seattle, Washington

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WSR 96-04-042
DEPARTMENT OF ECOLOGY

[Filed February 5, 1996, 9:47 a.m.]

NOTICE OF PUBLIC HEARINGS
Washington State Implementation Plan (SIP)
March 5, 1996

The Washington State Department of Ecology will be conducting two public hearings at the Department of Ecology's Eastern Regional Office, North 4601 Monroe, Large Conference Room, Spokane, WA, on Thursday, February 8, 1996, at 7:00 p.m.

The purpose of the hearings will be to receive comments on forwarding revisions to the 1982 and 1992 Spokane SIP submittals to the Environmental Protection Agency (EPA) with a request that these amendments be included in the Washington state implementation plan (SIP). The revisions consist of the removal of two transportation control measures from the 1982 Spokane SIP and some additions to the 1993 Spokane SIP.

Interested persons may provide written or oral comments at the hearing. Written comments will be considered if postmarked no later than March 8, 1996, and should be sent to Fred Greef, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For information on the SIP submittals, or for a list of locations where a copy of the draft documents can be reviewed, please contact Lydia Blalock at (360) 407-6860.

For information on the contents of the draft documents, please contact Fred Greef, Department of Ecology, at (360) 407-6099.

* Ecology is an equal opportunity and affirmative action employer. If you have special accommodation needs, please call Lydia Blalock at (360) 407-6860 (voice) or (360) 407-6006 (TDD only).

WSR 96-04-044
ATTORNEY GENERAL'S OFFICE

[Filed February 5, 1996, 2:50 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S
OPINION

WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by February 28, 1996. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by February 28, 1996, the opinion may be issued before your comments have been received.

You may notify the Attorney General's Office of your intention to comment by calling (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests.

96-01-05 Request by Larry Swift, Executive Director WA State School Directors' Association

Must the district provide all five basic benefits listed in RCW 28A.400.270 in the pooling process outlined in RCW 28A.400.280 before permitting the inclusion of option benefits, or may the district/employee pool agree on a combination of basic benefits, that is less than five preserving more funds for optional benefits?

WSR 96-04-050
NOTICE OF PUBLIC MEETINGS
FIRE PROTECTION POLICY BOARD

[Memorandum—February 6, 1996]

Fire Protection Policy Board
Meeting Schedule for 1996

Date	Location
Thursday, January 18, 1996 10 a.m.	Lacey Fire District #3 Station #34
Thursday, March 14, 1996 9 a.m. (Fire Marshal Roundtable)	Skamania Lodge Stevenson
Wednesday, May 1, 1996 9 a.m. (Fire Service '96 Conference)	WestCoast Wenatchee Conference Center
Thursday, July 18, 1996 10 a.m.	Washington State Patrol Bellevue District Office
Thursday, September 19, 1996 10 a.m.	Spokane Valley F.D. #1 Valley Training Center
Thursday, November 21, 1996 10 a.m.	Lacey Fire District #3 Station #34

If you have questions regarding Fire Protection Policy Board meetings or need further information, contact Pam Williams, Fire Protection Bureau, at (360) 753-0453.

WSR 96-04-051
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON

[Memorandum—February 1, 1996]

Following are the meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the

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university that maintain regular meeting schedules at the UW Public Records Office.

BIOENGINEERING

Bioengineering Faculty

Meeting Dates	Location	Time
Second Tuesday of the month, January-June and October-December	Harris 322	8:30-10:00 a.m.

Curriculum Committee

Meeting Dates	Location	Time
Will need to call office for next meeting date. Currently meetings are held on an "as needed" basis.	Harris 322	t.b.a.

Scandinavian Language and Literature Faculty Meeting

Meeting Dates	Location	Time
January 9, 1996	314 Raitt	2:30
February 6, 1996	314 Raitt	2:30
February 20, 1996	314 Raitt	2:30
February 27, 1996	314 Raitt	2:30
March 5, 1996	314 Raitt	2:30

WSR 96-04-061

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—February 7, 1996]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 15, 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 96-04-062

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—February 7, 1996]

The Edmonds Community College board of trustees will attend the following functions during the month of February:

February 8, 1996* Thursday	1:00-1:30 p.m., Grand opening ceremony begins outdoors at Community Transit Center located on Edmonds Community College campus. 1:30-3:00 p.m. Ceremony continues in cafeteria, Brier Hall.
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February 8, 1996*
Thursday

7:30 p.m., South Snohomish Distinguished Lecture, Dr. Renuka Singh, Triton Union Building 202.

February 15, 1996
Thursday

4:30 p.m., Sno-King Building Boardroom 103, Regular Edmonds Community College board of trustees meeting. During the regular meeting the board will hold an executive session to review the qualifications of applicants for public employment, namely the position of college president. Action will be taken to select a new college president.

February 16, 1996*
Friday

6:00-8:30 p.m., Triton Union Building Room 202, Hospitality and tourism college graduation and reception.

February 25-27*
Sunday through
Tuesday

Association of Community College Trustees (ACCT), National Legislative Seminar, J. W. Marriott Hotel, Washington D.C.

* The Edmonds Community College board of trustees will not take any action at these events.

WSR 96-04-063

**NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE**

[Memorandum—February 6, 1996]

At their February 1, 1996, meeting, the board of trustees of Community College District 24 changed the following regular board meetings:

Old Meeting Schedule	New Meeting Schedule
Thursday, March 7, 1996	Wednesday, March 6, 1996
Thursday, April 4, 1996	Thursday, April 11, 1996
Thursday, June 6, 1996	Thursday, June 13, 1996

All to be held in the boardroom of Building 25 on our campus.

WSR 96-04-075

ATTORNEY GENERAL'S OFFICE

[Filed February 7, 1996, 11:25 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION

WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the

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state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by February 28, 1996. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by February 28, 1996, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests.

96-02-03 Request by Eugene A. Prince, Senator

Does the Department of Transportation have authority to use the money appropriated to it in subsection (5) of section 228, chapter 14, Laws of Washington, 2nd special session, for the acquisition of property required to be used as a wetlands mitigation site for the development of a horse racing track facility, assuming that acquisition of the property in question is not connected in any way with the construction, maintenance or operation of the state's system of highways and roads?



Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
434-219-080	RECOD	96-03-141	468-200-300	NEW	96-02-067
434-219-090	RECOD	96-03-141	468-200-320	NEW	96-02-067
434-219-100	RECOD	96-03-141	468-200-340	NEW	96-02-067
434-219-110	RECOD	96-03-141	468-200-350	NEW	96-02-067
434-219-120	RECOD	96-03-141	468-200-360	NEW	96-02-067
434-219-130	RECOD	96-03-141	478-120	AMD-C	96-03-091
434-219-140	RECOD	96-03-141	478-124	AMD-C	96-03-091
434-219-150	RECOD	96-03-141	479-12-008	AMD	96-04-015
434-219-160	RECOD	96-03-141	479-20-013	AMD	96-04-015
434-219-180	RECOD	96-03-141	479-112-0055	AMD	96-04-015
434-219-190	RECOD	96-03-141	480-09-300	AMD	96-02-083
434-219-210	RECOD	96-03-141	480-09-310	AMD	96-02-083
434-219-220	RECOD	96-03-141	480-09-330	AMD	96-02-083
434-219-230	RECOD	96-03-141	480-09-340	AMD	96-02-083
434-219-240	RECOD	96-03-141	480-09-390	NEW	96-02-083
434-219-250	RECOD	96-03-141	480-09-426	NEW	96-02-083
434-219-260	RECOD	96-03-141	480-09-460	AMD	96-02-083
434-219-270	RECOD	96-03-141	480-09-465	AMD	96-02-083
434-219-280	RECOD	96-03-141	480-09-466	NEW	96-02-083
434-219-290	RECOD	96-03-141	480-09-467	NEW	96-02-083
434-219-310	RECOD	96-03-141	480-09-470	AMD	96-02-083
434-219-320	RECOD	96-03-141	480-09-480	AMD	96-02-083
434-219-330	RECOD	96-03-141	480-09-750	AMD	96-02-083
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