

Washington State Register

MAY 1, 1996

OLYMPIA, WASHINGTON

ISSUE 96-09



IN THIS ISSUE

Accountancy, Board of
Agriculture, Department of
Boiler Rules, Board of
Cascadia Community College
Convention and Trade Center
Eastern Washington University
Ecology, Department of
Edmonds Community College
Education, State Board of
Employment Security Department
Financial Institutions, Department of
Financial Management, Office of
Fish and Wildlife, Department of
Forest Practices Appeals Board
Forest Practices Board
Gambling Commission
General Administration, Department of
Health Care Authority
Health, Department of
Higher Education, Joint Center for
Historical Society, Washington State
Horse Racing Commission
Indeterminate Sentence Review Board
Insurance Commissioner's Office
Judicial Conduct, Commission on

Labor and Industries, Department of
Licensing, Department of
Liquor Control Board
Lottery Commission
Marine Safety, Office of
Personnel Resources Board
Public Disclosure Commission
Public Employment Relations Commission
Public Instruction, Superintendent of
Public Works Board
Puget Sound Air Pollution Control Agency
Red Raspberry Commission
Revenue, Department of
Seattle Community Colleges
Social and Health Services, Department of
South Puget Sound Community College
Southwest Air Pollution Control Authority
Tacoma Community College
Transportation Improvement Board
Transportation, Department of
Washington State Library
Washington State Patrol
Western Washington University
Workforce Training and Education
Coordinating Board

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than April 17, 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.

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of May 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.

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504-0552, pursuant to RCW 34.08.020. Subscription rate is \$189.00 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
P.O. Box 40552
Olympia, WA 98504-0552

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

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of 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
96-12	May 8	May 22	Jun 5	Jun 19	Jul 9
96-13	May 22	Jun 5	Jun 19	Jul 3	Jul 23
96-14	Jun 5	Jun 19	Jul 3	Jul 17	Aug 6
96-15	Jun 26	Jul 10	Jul 24	Aug 7	Aug 27
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1997

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

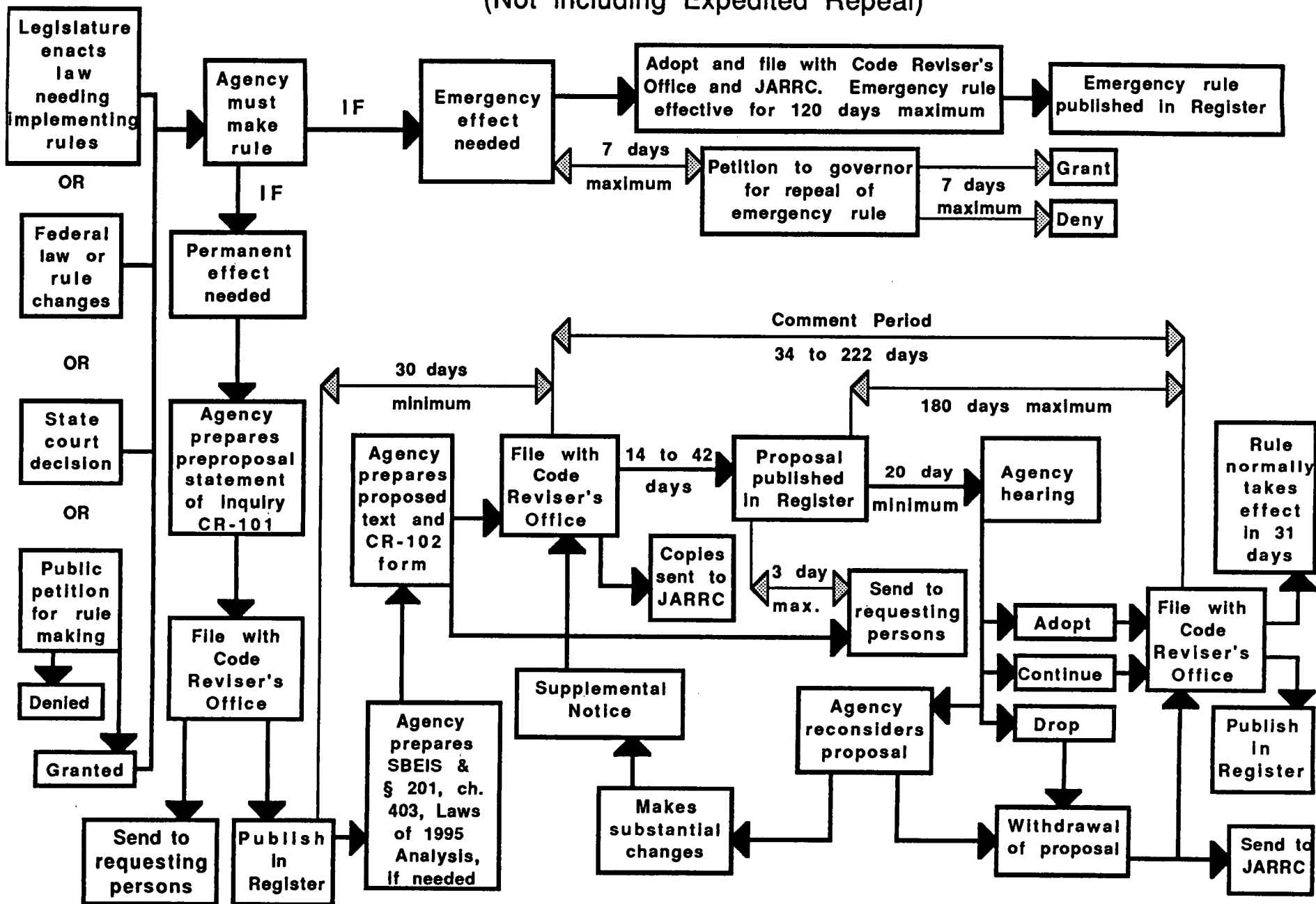
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 96-09-005
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Credit Unions)

[Filed April 4, 1996, 1:52 p.m.]

Subject of Possible Rule Making: Amending the definition of "common bond of association" in WAC 419-72-015(2).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 31.12.045 and 31.12.535.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 419-72-015(2) defines "common bond of association." The second paragraph of WAC 419-72-015(2) provides that retired persons and persons age fifty or older are deemed to have a common bond of association ("senior provision"). Consequently, a credit union may add a group of such individuals to its field of membership ("FOM") even though the group does not meet standard requirements for an associational group. A question has been raised whether the senior provision satisfies statutory requirements in RCW 31.12.045 that a common bond exist in an associational group in order for it to be eligible for inclusion in a credit union's FOM. The NCUA has deleted a comparable provision from its rulings.

The Department of Financial Institutions is considering whether to delete the senior provision from WAC 419-72-015(2). If the provision is deleted, a credit union could add a group of retired persons and persons age fifty or older to its FOM only if the group had a common bond of association under the standard regulatory requirements.

A credit union which has added such a group to its FOM prior to the filing of this CR-101 must delete the group from its FOM if and when the rule to delete the senior provision is adopted and becomes effective. Of course, as to members added before the effective date, the principle of "once a member, always a member" would apply.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting J. Parker Cann, Acting Assistant Director, phone (360) 902-8778 or Linda K. Jelke, Program Manager, phone (360) 902-8753; at the Department of Financial Institutions, P.O. Box 41200, Olympia, WA 98504-1200, FAX (360) 902-8800.

April 4, 1996
 John L. Bley
 Director

WSR 96-09-013
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION

[Filed April 5, 1996, 3:50 p.m.]

Subject of Possible Rule Making: Public access to information and records, chapter 468-06 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 42.17 RCW and RCW 47.01.101.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update of chapter 468-06

WAC. Due to reorganization within the Department of Transportation there are name changes and new divisions/offices to be added to the description of the department. There have also been changes to chapter 42.17 RCW relating to public records and this update reflects some of those changes which affect public disclosure of records.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Public Disclosure Commission.

Process for Developing New Rule: Agency review.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting William D. Richeson, Records Manager, Department of Transportation, Olympia, Washington 98504-7410, (360) 705-7761, FAX (360) 705-6808.

April 5, 1996
 S. A. Moon
 Deputy Secretary
 for Operations

WSR 96-09-018
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed April 8, 1996, 9:15 a.m.]

This is a request to withdraw chapter 246-800 WAC which was filed October 10, 1994, and published in WSR 94-21-025. The statute this rule would have clarified, RCW 18.130.330, mandatory malpractice insurance coverage for health care practitioners, was repealed during the 1995 legislative session by ESHB 1589 [1046]. For this reason, chapter 246-800 WAC is not needed.

Individuals requiring information on chapter 246-800 WAC should contact Edwina Dorsey, RN, MPA, Health Services Consultant at (360) 753-3129.

Bruce Miyahara
 Secretary

WSR 96-09-026
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed April 9, 1996, 10:42 a.m.]

Subject of Possible Rule Making: Chapter 180-90 WAC, Private schools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.195.040 and 28A.225.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to chapter 180-90 WAC are necessary to implement HB 2494 (chapter 83, Laws of 1996) as enacted by the legislature.

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

April 9, 1996
Larry Davis
Executive Director

WSR 96-09-029
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed April 10, 1996, 9:12 a.m.]

Subject of Possible Rule Making: Establishing a definition and fee for shellfish export certifications.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20B.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Many Asian countries require a health certificate from a state or federal health agency before accepting shellfish exports. The Department of Health has been providing these certificates as a courtesy. However, a dramatic increase in requests for export certifications has required the shellfish programs to shift resources to meet the needs of the industry. Establishing a fee to cover the cost of providing export certifications would enable the shellfish programs to continue issuing export certifications and allow Washington companies to continue exporting shellfish to Asian countries.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Food and Drug Administration (FDA) currently handles certification for European countries but has chosen not to provide certifications for Asian countries. The Department of Health will only issue certifications for Asian countries causing no duplication.

Process for Developing New Rule: The rule-making process will include mailings to interested parties. Public meetings will be held if responses demonstrate a need.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jennifer Tebaldi, Department of Health, Shellfish Programs, Airdustrial Center, Building 4, P.O. Box 47824, Olympia, WA 98504-7824, phone (360) 753-5992, FAX (360) 586-4499.

April 9, 1996
Bruce A. Miyahara
Secretary

WSR 96-09-031
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
FINANCIAL MANAGEMENT

[Filed April 10, 1996, 11:21 a.m.]

Subject of Possible Rule Making: Setting pay dates for state officers and employees for 1997.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.16.010 and 42.16.017.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Office of Financial Management is required by statute to establish pay dates for each calendar year.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State pay dates are coordinated so that they do not fall on state holidays designated by the Department of Personnel or federal holidays designated by the federal reserve.

Process for Developing New Rule: Criteria established by statute, considering legal holidays established at the state and federal levels, are applied to establish pay dates for state officers and employees.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brian Mansfield, Office of Financial Management, 406 Legion Way S.E., Olympia, WA 98504-3127, phone (360) 664-3415, FAX (360) 664-3423.

April 10, 1996
Cameron R. Dightman
Rules Coordinator

WSR 96-09-034
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed April 10, 1996, 1:27 p.m.]

Subject of Possible Rule Making: WAC 388-49-480 Income—Ineligible household members.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A change in this rule is needed in order to delete the phrase "...Providing the ineligible members have income." This phrase no longer appears in 7 CFR 273.11 (c)(2)(iii) which is the enabling federal rule.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Charles Henderson, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (360) 438-8325, FAX (360) 438-8258.

April 10, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

WSR 96-09-044
PREPROPOSAL STATEMENT OF INQUIRY
LIQUOR CONTROL BOARD

[Filed April 11, 1996, 10:22 a.m.]

Subject of Possible Rule Making: Determination of the amount of tobacco which shall constitute a "sample" for the purpose of chapter 70.155 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.155.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The intention is to establish what quantity of tobacco product shall be considered a "sample" for the purposes of implementing the enforcement of chapter 70.155 RCW. The quantity of product being "sampled" has been a major concern voiced by many individuals in meetings held earlier on the subject and in complaints received by health officials and the board. If the quantity of product was clearly established by rule, confusion by the industry and the public would be reduced and complaints of too much product being given as a "sample" should be eliminated.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health has worked with the board in the past on this subject and will continue to be involved as the board proceeds with rule making.

Process for Developing New Rule: The board will hold a series of public meetings in various locations throughout the state in order to gather information on the subject.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sherry Frederick, Washington State Liquor Control Board Enforcement Division, P.O. Box 43094, Olympia, WA 98504-3094, FAX (360) 664-0501, phone (360) 753-6278.

April 11, 1996
 Nathan S. Ford, Jr.
 Chairman

WSR 96-09-050
PREPROPOSAL STATEMENT OF INQUIRY
TACOMA COMMUNITY COLLEGE

[Filed April 12, 1996, 9:20 a.m.]

Subject of Possible Rule Making: Tuition and fee waivers for full-time employees at Tacoma Community College, chapter 132V-11 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Statutory Authority: RCW 28B.15.535(3) and chapter 28B.15 RCW. WSR 80-01-006 (Resolution No. 79-12), WAC 132V-11-010, filed December 11, 1979.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revisions to existing policy.

BACKGROUND: The tuition and fee waiver for full-time employee WAC, item (5), includes a requirement that staff pay a \$5.00 one-time records fee. In actual practice we have not collected this fee since the early 1980s. When the application fee was dropped, this records fee was also dropped.

Item (6) does not include a provision for any exception to the ten credit limit. On rare occasion a staff member has

been enrolled in a program that requires the student to take more than ten credits.

RECOMMENDATION: The reference to a records change in item (5) be deleted and reference made instead to the Tacoma Community College board of trustees policy where exact charges are delineated.

A sentence be added to item (6) that provides for an exception to the credit limit to be made by the college president.

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. TCC instructional administrators meeting at 9:00 a.m. on April 3, 1996; TCC college council meeting at 2:30 p.m. on April 9, 1996; TCC student services administrators meeting at 9:30 a.m. on April 10, 1996; TCC board of trustees meeting at 4:00 p.m. on May 2, 1996; available on K drive of TCC computer system for public review.

Contact April Retherford, Associate Dean/Registrar, Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466, phone (206) 566-5064, FAX (206) 566-6011, aretherf@tcc.tacoma.ctc.edu.

April 11, 1996
 April Retherford
 Associate Dean/Registrar

WSR 96-09-050A
PREPROPOSAL STATEMENT OF INQUIRY
TACOMA COMMUNITY COLLEGE

[Filed April 12, 1996, 9:20 a.m.]

Subject of Possible Rule Making: Confidentiality of student records, chapter 132V-15 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Statutory Authority: RCW 28B.50.140(13). WSR 89-20-013 (Order 89-1), WAC 132V-15-010 through 132V-15-120, filed September 26, 1989, effective October 27, 1989.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revisions to existing policy.

BACKGROUND: In 1995 there were substantial changes in the published guidelines for postsecondary institutions for implementation of the Family Educational Records and Privacy Act (FERPA). A review of these guidelines pointed out several areas in which our Tacoma Community College WAC was inadequate or in need of revision.

Under WAC 132V-15-020(4), directory information, we are currently restrained from releasing information that most students would want released. For example, if a potential employer calls to confirm a student received a degree at the college, we are prohibited from releasing this information; our commencement program currently puts us out of compliance with our restrictive definition; to release names of honor students for publication in The Challenge, we had to call every student. The restrictiveness of our current WAC is very burdensome for the staff and does not adequately serve our students' interests.

Under WAC 132V-15-020 (6)(b), the educational records definition is too broad and does not clearly identify the exemptions for certain personal staff notes, security, employee, medical/counseling and alumni records. By

clearly defining these exceptions we reduce the likelihood of inappropriate records searches.

Under WAC 132V-15-030, type/location/responsibility of records, there were numerous revisions due to administrative office restructuring. The business office was not identified in the existing WAC for fee collection records.

Under WAC 132V-15-090, third party access to records-external, changes were made to address a 1994 amendment to FERPA relating to grand jury/law enforcement subpoena and the Crime Awareness and Security Act.

RECOMMENDATIONS: Broaden directory information to include student name, degrees and awards received, and permit confirmation of dates of attendance, date of birth, major field of study, participation in officially recognized sports and activities, and the most recent previous educational institution attended.

Add an exclusion clause to the educational records section for those records not covered under FERPA.

Update the type/location/responsibility of records section to reflect current administrative structure.

Add item relating to release of information to state and local officials which is overlooked in the original WAC.

Add items relating to victim of crime obtaining access to disciplinary results.

Add provisions to cover public release of directory information.

Other minor changes are recommended to improve the clarity of the policy.

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. TCC instructional administrators meeting at 9:00 a.m. on April 3, 1996; TCC college council meeting at 2:30 p.m. on April 9, 1996; TCC student services administrators meeting at 9:30 a.m. on April 10, 1996; TCC board of trustees meeting at 4:00 p.m. on May 2, 1996; available on K drive of TCC computer system for public review.

Contact April Retherford, Associate Dean/Registrar, Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466, phone (206) 566-5064, FAX (206) 566-6011, aretherf@tcc.tacoma.ctc.edu.

April 11, 1996
April Retherford
Associate Dean/Registrar

WSR 96-09-050B
PREPROPOSAL STATEMENT OF INQUIRY
TACOMA COMMUNITY COLLEGE

[Filed April 12, 1996, 9:20 a.m.]

Subject of Possible Rule Making: Public records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 1, Laws of 1973 (Initiative 276) Disclosure—Campaign finances—Lobbying—Records; and in particular, sections 25-32 of that act, dealing with public records.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revisions to existing policy.

BACKGROUND: Chapter 132V-24 WAC, public records, contains outdated information regarding when and where the board of trustees meet.

The ten-cent copy charge is currently too low to recover paper costs, and in fact is so low that we lose money in cashing the fee. We currently charge \$1.00 for unofficial transcripts and \$1.00 per page for copies made in the event of subpoena.

Under the protection of public records section there is an incorrect records location building cited.

RECOMMENDATIONS: Correct meeting time and place information to reflect changes made by the board last summer.

Increase copy charge to \$1.00 per page for public records.

Update building location for public records to Building 13.

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. TCC instructional administrators meeting at 9:00 a.m. on April 3, 1996; TCC college council meeting at 2:30 p.m. on April 9, 1996; TCC student services administrators meeting at 9:30 a.m. on April 10, 1996; TCC board of trustees meeting at 4:00 p.m. on May 2, 1996; available on K drive of TCC computer system for public review.

Contact April Retherford, Associate Dean/Registrar, Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466, phone (206) 566-5064, FAX (206) 566-6011, aretherf@tcc.tacoma.ctc.edu.

April 11, 1996
April Retherford
Associate Dean/Registrar

WSR 96-09-050C
PREPROPOSAL STATEMENT OF INQUIRY
TACOMA COMMUNITY COLLEGE

[Filed April 12, 1996, 9:20 a.m.]

Subject of Possible Rule Making: Hazing policy, chapter 132V-130 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: SSB 5075 passed by the 1993 legislature.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: New policy.

BACKGROUND: The state legislature passed SSB 5075 defining and prohibiting hazing at institutions of higher education. It specified penalties and sanctions for both individual students and student groups. All institutions are required to create a WAC specifying the college's hazing policy. The State Board for Community and Technical Colleges drafted a recommended model policy. Last summer a committee met and developed a draft hazing policy for Tacoma Community College. It was shared with students and administrative staff. It essentially follows the model policy recommended by the state board. Hearings related to this policy involving students will follow structure specified in the code of student rights and responsibilities WAC.

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. TCC instructional administrators meeting at 9:00 a.m. on April 3, 1996; TCC college council meeting at

2:30 p.m. on April 9, 1996; TCC student services administrators meeting at 9:30 a.m. on April 10, 1996; TCC board of trustees meeting at 4:00 p.m. on May 2, 1996; available on K drive of TCC computer system for public review.

Contact April Retherford, Associate Dean/Registrar, Tacoma Community College, 6501 South 19th Street, Tacoma, WA 98466, phone (206) 566-5064, FAX (206) 566-6011, aretherf@tcc.tacoma.ctc.edu.

April 11, 1996
April Retherford
Associate Dean/Registrar

WSR 96-09-067
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed April 15, 1996, 3:50 p.m.]

Subject of Possible Rule Making: Chapter 392-141 WAC, Transportation—State allocation for operations.

Specific Statutory Authority for New Rule: SB 6684.

Reasons Why the New Rule is Needed: SB 6684 changes the operation allocation approach for funding within one-radius mile to the total number of kindergarten through fifth grade students enrolled during ridership count week and living within one-radius mile or less of their school, multiplied by the allocation rate and further multiplied by a factor of 1.29.

Goals of New Rule: To provide funding while allowing the school district to determine how to mitigate hazards by 1. funding crossing guards, 2. transporting students, or 3. matching local and state funds for projects which will mitigate hazards. The bill also reduces the paperwork and amount of reporting required by school districts regarding hazardous walking condition funding.

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 formulation of the new rule by sending written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (360) 753-4201, TDD (360) 664-3631. Marcelyn A. Senger, Acting Director, Pupil Transportation and Traffic Safety Education, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, (360) 753-0235, FAX (360) 586-3946.

April 15, 1996
Judith A. Billings
Superintendent of
Public Instruction

WSR 96-09-068
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed April 15, 1996, 3:55 p.m.]

Subject of Possible Rule Making: Chapter 392-142 WAC, Transportation—Replacement and depreciation allocation.

Specific Statutory Authority for New Rule: RCW 28A.160.200 and ESSB 6251a (Biennial Appropriations Act).

Reasons Why the New Rule is Needed: The Biennial Appropriations Act requires that the school bus lifetimes of eight categories be changed. The twenty-year bus lifetime shall be replaced by eighteen years and the fifteen-year bus lifetime shall be replaced by thirteen years effective September 1, 1996.

Goals of New Rule: To accelerate the replacement of school buses in an aging statewide fleet and initiates alignment toward the transportation industry lifetimes.

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 formulation of the new rule by sending written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (360) 753-4201, TDD (360) 664-3631. Marcelyn A. Senger, Acting Director, Pupil Transportation and Traffic Safety Education, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, (360) 753-0235, FAX (360) 586-3946.

April 15, 1996
Judith A. Billings
Superintendent of
Public Instruction

WSR 96-09-069
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed April 15, 1996, 3:57 p.m.]

Subject of Possible Rule Making: Chapter 392-143 WAC, Transportation—Specifications for school buses.

Specific Statutory Authority for New Rule: RCW 46.61.380.

Reasons Why the New Rule is Needed: To amend chapter 392-143 WAC to include new definitions for Type A and Type C school buses. The definitions shall bring Washington state in alignment with the 1995 *National Standards for School Buses and Operations* and the transportation industry.

Goals of New Rule: To furnish school districts with a better selection of bus types consistent with school transportation needs and national standards.

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 formulation of the new rule by sending written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (360) 753-4201, TDD (360) 664-3631. Marcelyn A. Senger, Acting Director, Pupil Transportation and Traffic Safety Education, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, (360) 753-0235, FAX (360) 586-3946.

April 15, 1996
Judith A. Billings
Superintendent of
Public Instruction

WSR 96-09-076
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Division of Children and Family Services)
(Public Assistance)

[Filed April 16, 1996, 1:21 p.m.]

Subject of Possible Rule Making: WAC 388-15-134 Child protective services—Notification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 26.44 RCW, RCW 74.08.090, 74.12.280, and 74.13.031.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Directs the department to notify subjects of a child protective services investigation about the investigation, the findings and the potential impact on the person. Provides an informal opportunity to challenge or correct the information in the department file. Persons who are the subject of a child protective services investigation may be disqualified from employment or licensure in child related work. Information may be used in court.

Process for Developing New Rule: Agency study, the department is working collaboratively with the ACLU to develop rules for notifying persons affected by information in the department files.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Richard Winters, Department of Social and Health Services, Division of Children and Family Services, P.O. Box 45710, Olympia, WA 98504-5710, phone (360) 586-0686, FAX (360) 586-1040, TDD (360) 664-8017.

April 16, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

WSR 96-09-086
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF BOILER RULES

[Filed April 16, 1996, 4:15 p.m.]

Subject of Possible Rule Making: Chapter 296-104 WAC, Annual updating for clarifications, reformatting for consistency and adoption of applicable national codes and standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.79.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 296-104-025, 296-104-065, 296-104-102, 296-104-170, 296-104-273, 296-104-215, 296-104-230, 296-104-235, 296-104-240, 296-104-245, 296-104-255 and 296-104-260, editorial clarifications and reformatting for consistency; WAC 296-104-205, 296-104-210 and 296-104-220, establishes and better defines the process and requirements for nonstandard boiler and pressure vessels; and WAC 296-104-256, establish and better defines requirements and process for reinstalled standard boilers and pressure vessels.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dick Barkdoll, Chief Boiler Inspector, Secretary to the Board, P.O. Box 44410, Olympia, WA 98504-4410, (360) 902-5270, FAX (360) 902-5292. Board of Boiler Rules regular meeting, on May 21, 1996, Tukwila L&I Office, at 10:00 a.m., 12806 Gateway Drive; and public hearing, on September 17, 1996, L&I Building, Tumwater, at 10:00, 7273 Linderson Way S.E.

April 16, 1996
Charles Butros
Chairman of the Board

WSR 96-09-090
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed April 17, 1996, 10:55 a.m.]

Subject of Possible Rule Making: Amending standards for asparagus. Changes are being made to WAC 16-409-020, 16-409-030, 16-409-060, and 16-409-065.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.17.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Respond to industry request and their concerns regarding lack of uniformity and market weakness, as a result of competition from inferior quality product offered at low prices. Changes will improve and enhance the marketing of fresh Washington asparagus and assist in maintaining the premier image of the product achieved worldwide. The consuming public will be served by improved product quality and uniformity while at the same time allowing product packaging, the flexibility to be responsive to market changes.

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

Process for Developing New Rule: Request from industry, Washington Asparagus Commission, growers, shippers/packers.

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

publication by contacting Mr. Jim Quigley, Program Manager, WSDA - F&V, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1833, FAX (360) 902-2094.

April 15, 1996
Robert W. Gore
Assistant Director

WSR 96-09-094
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed April 17, 1996, 11:05 a.m.]

Subject of Possible Rule Making: Procedures for suspending the licenses of escrow agents who do not repay student loans and providing for fees to reinstate licenses after the licensee complies with chapter 293, Laws of 1996.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 293, Laws of 1996 (SHB 2371).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are necessary to implement SHB 2371 which requires the department to suspend an escrow license when the department is notified that an escrow agent has not repaid a student loan. The law also allows the department to charge a fee to reinstate the license.

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

Process for Developing New Rule: Agency study; and industry committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ed Burgert, Program Manager, Consumer Services, P.O. Box 41200, Room 300, General Administration Building, Olympia, WA 98504-1200, phone (360) 902-8727, FAX (360) 902-664-2258 [664-2258].

April 17, 1996
John L. Bley
Director

WSR 96-09-095
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed April 17, 1996, 11:07 a.m.]

Subject of Possible Rule Making: Fees charged by the Department of Financial Institutions to check cashers and check sellers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 13, Laws of 1996 (HB 2810).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are necessary to implement HB 2810 which allows the department to charge check cashers and check sellers annual licensing fees.

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

Process for Developing New Rule: Agency study; and industry committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ed Burgert, Program Manager, Consumer Services, P.O. Box 41200, Room 300, General Administration Building, Olympia, WA 98504-1200, phone (360) 902-8727, FAX (360) 902-664-2258 [664-2258].

April 17, 1996
John L. Bley
Director

WSR 96-09-100
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 17, 1996, 11:32 a.m.]

Subject of Possible Rule Making: Add new sections to chapter 296-17 WAC to establish rules to certify and decertify employers to the Department of Labor and Industries for the worker compensation premium discount.

Statutes Authorizing the Agency to Adopt Rules on this Subject: 2SSB 5516, an act relating to providing for drug-free workplaces; adding a new chapter to Title 49 RCW; and providing an expiration date.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: New legislation establishes a time limited demonstration project in Washington state to study reduction in workplace accidents and associated costs related to drug and alcohol involvement. The Department of Labor and Industries will adopt rules to provide guidelines for implementation of the premium discount including provisions for establishing guidelines for repayment of premium discounts and penalties by employers that are decertified.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Labor and Industries will work with the Department of Social and Health Services to coordinate the implementation of the drug free workplace legislation (2SSB 5516). The Department of Labor and Industries and the Department of Social and Health Services will be forming advisory committees with representation from the Honorable Brad Owen, Washington State Senator, Stephen Smith, OFM/Governor's Office, business and labor community.

Process for Developing New Rule: Agency study; and we will hold both an internal and external review process; comments will be considered. In addition, we will hold meetings to allow input from the regulated community and the public.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Kimbel, Program Manager, Industrial Insurance, Employer Services, Labor and Industries, P.O. Box 44140, Olympia, WA 98504-4140, phone (360) 902-4739, FAX (360) 902-4729.

April 17, 1996
Mark O. Brown
Director

WSR 96-09-103
PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION

[Filed April 17, 1996, 11:50 a.m.]

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

Reasons Why Rules on this Subject may be Needed and
What They Might Accomplish: As stated in the preproposal
statement of inquiry filed as WSR 96-08-071, the lottery is
considering amending WAC 315-11A-164 at the July 12,
1996, commission meeting. In addition to changing the play
symbols for Instant Game No. 164, the proposed amendment
would also add at least one prize symbol, alter at least one
prize symbol, and change where the prize symbols are
located on a ticket. The lottery is also considering amending
all existing sections to chapter 315-06 WAC which, consis-
tent with RCW 67.70.100 as modified during the 1996
session of the legislature, will permit Lotto winners to assign
their prizes to a third party and enable the lottery to recover
the actual costs incurred to process assignments.

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 Judith Giniger, Rules Coordinator,
at (360) 586-1088, FAX (360) 586-6586, P.O. Box 43025,
Olympia, WA 98504-3000, with any comments or questions
regarding this statement of intent.

April 17, 1996
Roger Wilson
Deputy Director

**WSR 96-09-002
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE**

[Filed April 3, 1996, 4:38 p.m.]

Continuance of WSR 96-04-087.
Exempt from preproposal statement of inquiry under RCW 34.05.310(4).
Title of Rule: Description of the Insurance Commissioner's Office.
Purpose: Continuation of adoption date.
Other Identifying Information: Insurance Commissioner Matter No. R 96-3.
Date of Intended Adoption: April 10, 1996.
April 3, 1996
George W. Taylor, Jr.
Deputy Commissioner

**WSR 96-09-003
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Wildlife)**

[Filed April 4, 1996, 8:02 a.m.]

The Washington State Department of Fish and Wildlife withdraws filing WSR 96-06-062, and will not seek to amend WAC 232-12-025 or proposed new WAC 232-12-026.
Evan S. Jacoby
Rules Coordinator

**WSR 96-09-008
PROPOSED RULES
OFFICE OF MARINE SAFETY**

[Filed April 5, 1996, 9:20 a.m.]

Continuance of WSR 96-03-071.
Title of Rule: Proposing chapter 317-31 WAC, Cargo and passenger vessels—Substantial risk; and repealing chapter 317-30 WAC, Cargo and passenger screening rules.
Date of Intended Adoption: May 1, 1996.
April 2, 1996
Barbara Herman
Director

**WSR 96-09-009
PROPOSED RULES
WESTERN WASHINGTON UNIVERSITY**

[Filed April 5, 1996, 10:45 a.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 96-03-110.
Title of Rule: Chapter 516-12 WAC, Parking and traffic regulations.
Purpose: To update parking violations and increase fines as a deterrent and consequence to violation of parking regulations; to make changes that will clarify or refine various existing elements of the parking system.

Statutory Authority for Adoption: RCW 28B.35.-120(12).

Summary: To update parking violations and increase fines as a deterrent and consequence to violation of parking regulations; to make changes that will clarify or refine various existing elements of the parking system.

Reasons Supporting Proposal: It is expected that by increasing fines this will provide a deterrent to parking violations; also, update of parking regulations is timely.

Name of Agency Personnel Responsible for Drafting and Implementation: Ann Wallace, Parking Services, Western Washington University, Bellingham, Washington 98225, (360) 650-2945; and Enforcement: G. A. Pierce, VP B&FA, Old Main 300, Western Washington University, Bellingham, Washington 98225, (360) 650-3180.

Name of Proponent: Western Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Updates parking violation regulations and increases fines as a deterrent and consequence to violating parking regulations; makes changes that will clarify or refine various existing elements of the parking system.

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. Financial or economic impact is minimal.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules relate to internal governmental operations.

Hearing Location: Western Washington University, Old Main 340, 516 High Street, Bellingham, WA, on May 21, 1996, at 1 p.m.

Assistance for Persons with Disabilities: Contact Ann Wallace by May 6, 1996, TDD (360) 650-3725, or (360) 650-2945.

Submit Written Comments to: FAX (360) 650-3412, by May 6, 1996.

Date of Intended Adoption: June 14, 1996.

March 21, 1996
Wendy Bohlke
Senior Counsel

AMENDATORY SECTION (Amending WSR 95-09-047, filed 4/17/95, effective 5/18/95)

WAC 516-12-400 Definitions. As used in this chapter, and chapters 516-13 and 516-14 WAC, the following words and phrases mean:

- (1) "Area designator": A tag affixed to a permit indicating a parking lot assignment for a vehicle.
- (2) "Automobile": Any motorized vehicle having four or more wheels.
- (3) "Board": The board of trustees of Western Washington University.
- (4) "Campus": All state lands devoted to the educational or research activities of the university.
- (5) "Disabled space": A parking space identified with a sign bearing the international disabled symbol that is

PROPOSED

restricted at all hours to use by vehicles displaying a valid WWU disabled parking permit.

((6)) (7) "Dismount zone": Any area designated by signs or symbols as a place where bicycles shall not be ridden but may be walked.

((6)) (7) "Employee": Any individual appointed to the faculty, staff, or administration of the university.

((7)) (8) "Habitual offender": The driver of a vehicle license number or permit number accruing ten or more paid or unpaid parking citations.

((8)) (9) "Holiday" or "university holiday": A day when all university offices and/or facilities are closed (e.g., Thanksgiving Day, Christmas Day, New Year's Day). Intersession or quarter breaks are not considered holidays. See definition of intersession.

(10) "Intersession": A period of time in which classes or final exams are not in session. Except for holidays that may fall within this time period, the business offices of the university are open during this time.

(11) "Impoundment": A state in which a vehicle has been seized and kept in legal custody by either being immobilized with a wheel lock device or towed from campus.

((9)) (12) "Meter feeding": Purchase of additional time beyond the time limit posted on the parking meters. This practice is prohibited since use of meters is intended to serve short-term parking needs.

(13) "Motorcycle": Any two or three wheeled motorized vehicle.

((10)) (14) "Motor vehicle" or "vehicle": Any automobile or motorcycle.

((11)) (15) "Parking appeals board": The board which hears parking citation appeals.

((12)) (16) "Parking manager": The person appointed parking manager of the university by the president or designee.

((13)) (17) "Parking space": A parking area designated by a sign, wheelstop, white-painted lines, and/or white traffic buttons.

((14)) (18) "Permit": Any special or temporary parking permit authorized by the parking manager.

((15)) (19) "President": The president of Western Washington University.

((16)) (20) "Prohibited area": An area in which vehicular traffic and/or parking is prohibited according to the times posted.

(21) "Public safety department": The university public safety department.

((17)) (22) "Student": Any person enrolled in the university as a student.

((18)) (23) "Transportation and parking department": The transportation and parking department of the university.

((19)) (24) "Time-limited parking space": A space in which parking is allowed for a specific time period.

((20)) (25) "University": Western Washington University.

((21)) (26) "Valid permit": An unexpired parking permit authorized by the parking manager, properly registered and displayed on the vehicle.

((22)) (27) "Visitors": Persons who are neither employees or students and who visit the campus only on occasional basis.

(28) "Wheelstop": A cement((7)) or metal((7-or-wood)) barrier approximately eight inches high and six feet long used to define a parking space.

AMENDATORY SECTION (Amending WSR 90-17-032, filed 8/9/90, effective 9/9/90)

WAC 516-12-440 Parking areas. (1) Parking is prohibited in any area not specifically marked as a parking space, designated by a sign, wheelstop, white/painted lines, and/or white traffic buttons.

(2) Vehicles will not be parked in any parking area without a parking permit for that area except as provided in WAC 516-12-430(2). Each parking area is posted to indicate the type of permit required and the times they are required.

(3) Parking in a time-limited space is limited to the time posted or assigned.

(4) Visitors will park only where assigned by permit or in metered visitor areas with meter payment.

(5) Vehicles displaying valid permits for other parking areas on campus may not park in metered visitor lots except as provided in WAC 516-12-430(4).

(6) ~~(Metered lots are reserved for visitors and should not be used by members of the campus community.)~~ Meters are available to serve short-term parking needs. They are in effect at the times posted at the location. During these times the meter must be paid the correct amount posted. "Feeding" meters is prohibited. That is, additional time cannot be purchased beyond the time limit posted on the meter (e.g., a two-hour meter will allow a maximum of two hours of purchased time, and the driver may not pay the meter again to park longer than the maximum time provided).

(7) Motorcycles and moped-type vehicles will be parked in designated "M" (motorcycle) lots only and will not use space assigned to automobiles or bicycles.

(8) Automobiles will not ~~(park)~~ be parked in areas assigned to motorcycles.

(9) Bicycles must be parked in bicycle racks where provided. (Chapter 516-13 WAC.)

(10) Personal notes left on vehicles describing reasons for parking without a proper and valid permit or for parking in an unauthorized manner will not be accepted.

(11) Spaces designated for specific use are restricted for that designated purpose or to assigned vehicles all hours.

(12) Resident student "R" lots are restricted to permit holders 24 hours per day.

(13) All parking spaces are defined by signs, painted surface lines, traffic "buttons," and/or wheelstops. All other areas are no parking zones. Using more than one space when parking is prohibited.

(14) The fact that other vehicles are parked improperly does not constitute a valid excuse. Should an individual parked in violation of any regulation not receive a citation, it does not indicate that such parking is authorized, that the regulation is no longer in effect, or that a future ticket is invalid.

(15) The fact that one vehicle is parked in such a manner as to occupy more than one parking space is not an acceptable excuse for another operator to do the same.

AMENDATORY SECTION (Amending Resolution No. 85-05, filed 7/2/85)

WAC 516-12-460 Fees. (1) Fee schedules will be submitted by the president or his designee to the board of trustees for approval by motion and will thereafter be posted in the public area of the parking services office.

(2) Cost of permits will be prorated throughout the year according to type and date purchased and will be posted in the parking services office.

(3) Refunds may be made based on the valid time remaining upon application by the permit holder or upon revocation of the permit by the parking manager. Unpaid citation fines will be deducted from any refund.

(a) The permit holder must return the permit to the parking services office before a refund will be authorized or a payroll deduction be terminated.

(b) A service charge will be assessed for any permit returned during the first ten days of fall quarter.

(c) A service charge will be assessed for quarterly permits returned during the first ten days of the quarter for which valid.

(d) No refund will be made for ~~((any))~~ a quarterly permit during the last two weeks of the ((period for which issued)) quarter.

(e) No refund will be made for an academic permit during the last two weeks of spring quarter.

(f) No refund will be made for a summer permit or an annual permit after the six-week summer session.

(4) A service charge will be assessed for:

(a) Change of permit when a lot transfer is requested by the permit holder and approved by the parking manager.

(b) Replacement of permits unless old permit is returned in identifiable condition.

(5) ~~((Full time))~~ Salaried employees have the option of paying for parking through payroll deduction.

(6) Prorated fees will be charged for part-time permits and a visitor parking fee will be charged.

(7) The proper fee must be paid for all vehicles parked in metered lots unless otherwise authorized.

(8) For fees regarding lost or stolen permits, see WAC 516-12-450(5).

(9) Permit holders who forget their permit or any driver without a permit must purchase a temporary permit at current visitor fees.

AMENDATORY SECTION (Amending WSR 95-09-047, filed 4/17/95, effective 5/18/95)

WAC 516-12-470 Enforcement. (1) General

(a) A vehicle which is parked in a manner which endangers or potentially endangers members of the university community or their property, state property, and/or prevents a person having a valid permit from parking in their designated parking area, will be impounded on the first violation.

(b) Upon receiving a third parking citation with two previous unpaid parking citations outstanding for more than seventy-two hours, a vehicle is subject to impound.

(c) A student with unpaid parking citations may not be allowed to have a copy of his/her transcript released by the registrar's office.

(d) Parking permits will not be issued until all outstanding citations are paid.

(e) After identifying the registered owner of any vehicle without a parking permit or a permit number which has one or more unpaid citations, the parking services office will contact the owner in writing that payment is required. If payment for outstanding citations is not made by the date required, the matter will be referred to the appropriate collection agent and/or civil court for resolution.

(f) The operator and owner(s) of a vehicle which is involved in a violation of the university's parking regulations are jointly and severally responsible for the violation. The person to whom a permit is issued is responsible for all citations issued to that permit number.

(g) These enforcement measures are cumulative and resort to one or more will not waive or impair the university's right to use any other enforcement measure.

(h) The fine and penalty for illegal possession of a lost or stolen permit will be a fine equal to the original value of the highest priced period plus \$5.00 and revocation of parking privileges for a period of one year.

(2) When regulations are in effect

(a) Except as stated in (b) and (c) of this ~~((section))~~ subsection, ((the regulations in this chapter will be enforced)) parking regulations are subject to enforcement throughout the calendar year ((from 7 a.m. to 5 p.m.)) but will not be enforced on ((Saturdays, Sundays, and)) official university holidays unless otherwise posted. For purposes of this section, intersessions are not considered a university holiday.

(b) A vehicle which is parked in a manner which endangers or potentially endangers members of the university or their property or state property will be impounded on the first violation regardless of when the violation occurs.

(c) Intersession regulations will be determined and published by the parking manager as required.

(d) Permits are required in G, C, and V parking areas Monday through Friday from 7:00 a.m. through 5:00 p.m. unless otherwise posted. Permits are required in R (student resident) lots all hours.

(e) Should there be a conflict between these regulations, parking maps, and on-site posted signs regarding parking information and instructions, the on-site sign takes precedence.

(f) During the following periods of time special conditions exist, and the regulations are modified.

(i) Permits are not required in C lots or R lots at the start of each quarter from Monday of registration week until the first day of classes, at which time permits are required in all lots. C and R lots are also open during intersession between quarters.

(ii) Permits are not required in R (student resident) lots during final exam week of each quarter.

(3) Night parking

(a) The hours of night parking are 5:00 p.m. to 7:00 a.m.

(b) During the hours of night parking all lots except "R" (campus resident) lots and reserved spaces in any lot are open to parking unless otherwise designated by the parking manager.

(c) "R" parking lots are restricted to "R" permit holders at all times.

(4) Citations. A vehicle which is in violation of the university's parking regulations will be issued a citation, and

finest will be assessed for violations of these regulations according to the following schedule:

- (a) \$5.00 violations:
- ~~(i) ((Occupying more than one space;~~
 - ~~(ii) Parking at an expired meter;~~
 - ~~(iii) Improper display of permit((;~~
 - ~~(iv) Overtime parking)).~~
- (b) \$10.00 violations:
- ~~(i) ((No valid permit displayed;))~~ Overtime parking;
 - ~~(ii) Parking ((in prohibited area (except handicapped spaces))~~ at an expired meter;
 - ~~(iii) ((Parking on grass or landscaped area;))~~ Occupying more than one space;
 - ~~(iv) ((Parking out of assigned area;~~
 - ~~(v) Parking in a no parking zone((;~~
 - ~~(vi) Parking in a reserved area;~~
 - ~~(vii) Parking in a driveway or walkway)).~~
- (c) \$15.00 violation: ~~((Blocking traffic;))~~ Parking out of assigned area.
- (d) \$20.00 violations:
- (i) No valid permit displayed;
 - (ii) Unauthorized permit transfer.
- (e) \$25.00 violations:
- (i) Blocking traffic;
 - (ii) Parking in a grass or landscaped area;
 - (iii) Parking in a reserved area;
 - (iv) Parking in prohibited area (except disabled spaces);
 - (v) Parking in a driveway or walkway.
 - ~~((i) Parking in a designated handicapped space;~~
 - ~~(ii) (f) \$50.00 violations:~~
 - (i) Parking within fifteen feet of a fire hydrant or in a fire lane;
 - (ii) Parking within ten feet of a fire hydrant or in a fire lane((;).
 - ~~((e)) (g) \$100.00 violation. Display of lost, stolen or forged permit.~~
 - ~~((f) Citations will remain in effect for a period of five years;))~~ (h) \$175.00 violations: Parking in a disabled only space.
 - (i) Payment of citations is due upon receipt.
- (5) Continued violations. A vehicle which remains in violation of any regulations may receive additional citations for every four hours of the violation.
- (6) Impoundment by towing or wheel lock:
- (a) All violators are subject to having their vehicles impounded through the use of towing or the wheel lock device at their own risk and expense.
 - (b) Any vehicle may be towed away if the vehicle:
 - (i) Has been immobilized by wheel lock for more than twenty-four hours; or
 - (ii) Is parked in such a manner as to endanger the university community; or
 - (iii) Is parked in a fire lane or other posted tow-away zone; or
 - (iv) Is parked so as to deprive a permit holder of space in his/her assigned lot, personally reserved space or ~~((handicapped))~~ disabled space without a proper permit; or
 - (v) Is left under circumstances which indicate it has been abandoned; or
 - (vi) Is found displaying a forged or reported lost or stolen permit; or
 - (vii) Cannot be impounded with the wheel lock device.

(c) Any vehicle may be immobilized by use of a wheel lock device if the vehicle:

- (i) Has an accumulation of two or more unpaid parking tickets (the second of which has been outstanding for more than seventy-two hours); or
 - (ii) Is parked at any time on campus when parking privileges have been revoked.
- (d) The operator/owner of the impounded vehicle must provide positive personal identification and proof of ownership of the vehicle and pay all outstanding citations at the parking services office (or university public safety department when parking services office is closed) before a vehicle release is authorized, a release form completed and a copy issued to the vehicle operator/owner.
- (e) A fee will be assessed on vehicles immobilized by the wheel lock device.
- (f) Any vehicle which remains immobilized by wheel lock for more than twenty-four hours in an area where towing is not practical or possible will be assessed a fee for each day or portion thereof over the twenty-four hours.
- (g) An impound fee is charged if the driver of the tow truck or the wheel lock operator has performed any labor prior to the vehicle operator/owner returning to the vehicle before the impoundment is completed.
- (h) An impounded vehicle shall be released to the operator/owner of the vehicle when:
- (i) Positive identification and proof of ownership of the vehicle is provided;
 - (ii) All unpaid fines against the impounded vehicle or any other vehicle registered to the violator are paid at parking services (or university public safety department when parking services is closed);
 - (iii) A wheel lock fee is paid; and/or
 - (iv) All towing and storage fees are paid.
- (i) The operator/owner of the towed vehicle must present an authorized release form to the towing company and pay all towing charges including any storage fees incurred.
- (j) The university assumes no responsibility for damages which may result from use of the wheel lock device, storage, or attempts to move a vehicle with a wheel lock device installed.
- (k) A person wishing to challenge the validity of the impound or any fines or fees imposed under the impound policy may appeal through the process provided in the chapter governing appeals (chapter 516-14 WAC). However, in order to secure release of the vehicle, the driver must pay the amount of fines and/or fees as a bond which will be refunded to the extent the appeal is successful.
- (7) It is prohibited to park:
- (a) Without a valid permit;
 - (b) Double parked;
 - (c) In reserved spaces without a proper permit;
 - (d) In no parking areas;
 - (e) In a ~~((handicapped))~~ disabled space without a proper permit;
 - (f) In fire lanes, service roads, fire exits or within 15 feet of a fire hydrant;
 - (g) In loading zones unless actually loading (time is limited);

(h) In service entrances, construction sites, spaces reserved for maintenance vehicles, handicapped access areas, dumpster access;

(i) On lawns, sidewalks, crosswalks, parking lot drive-ways, straddling painted lines or buttons, or angle parking where prohibited;

(j) Exceeding time in time-limited or metered spaces;

(k) In areas where permit is not valid;

(l) Over or adjacent to yellow lines or curbs;

(m) Against the flow of traffic;

(n) In areas or spaces closed by barricades or other control devices.

**WSR 96-09-010
PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed April 5, 1996, 10:55 a.m.]

Continuance of WSR 96-04-071.

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, govern-
mental.

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.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by April 9, 1996.

Date of Intended Adoption: April 9, 1996.

April 4, 1996
Larry Davis
Executive Director

WSR 96-09-023

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed April 9, 1996, 8:37 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 468-300-210 Transporting hazard-
ous materials on Washington state ferries.

Purpose: To recover 100% of the operating and
maintenance costs for the charter.

Statutory Authority for Adoption: RCW 47.56.030 and
47.60.326.

Statute Being Implemented: RCW 47.60.326.

Reasons Supporting Proposal: To recover 100% of the
operating and maintenance costs for the charter.

Name of Agency Personnel Responsible for Drafting,
Implementation and Enforcement: Washington State Ferries,
801 Alaskan Way, Seattle, WA, (206) 515-3403.

Name of Proponent: Washington State Department of
Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated
Effects: To recover 100% of the operating and maintenance
costs for operating the charter.

Proposal does not change existing rules.

No small business economic impact statement has been
prepared under chapter 19.85 RCW. This change will not
have an impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply
to this rule adoption. Agency not included under subsection
(5)(a)(i) of section 201.

Hearing Location: Sheridan Recreation Center, 680
Lebo, Bremerton, WA 98310, on Wednesday, June 19, 1996,
at 10:00 a.m.

Assistance for Persons with Disabilities: Contact 1-800-
486-8392 by June 18, 1996, (360) 705-6980.

Submit Written Comments to: Ben Klein, Transporta-
tion Building, Room SC-06, P.O. Box 47318, Olympia, WA
98504-7318, FAX (360) 705-6808, by June 18, 1996.

Date of Intended Adoption: June 19, 1996.

April 8, 1996
Chris R. Rose
Administrator
Transportation Commission

AMENDATORY SECTION (Amending Order 63, Resolu-
tion No. 308, filed 10/1/87)

**WAC 468-300-210 Transporting hazardous materi-
als on Washington state ferries.** (1) "Hazardous materials"
mean any materials which are prohibited by 49 CFR §
172.101 from being carried on a regularly scheduled,
passenger-carrying vessel sailing. An example is a fully
loaded gasoline truck.

(2) The director of operations (~~(superintendent)~~) of
Washington state ferries (WSF) or (~~(his)~~) designee may
approve the transport of hazardous materials when a vessel
and vessel crew (~~(are)~~) can be made available considering
passenger service and vessel maintenance requirements.

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(3) Fares for (~~WSF~~) the transport of hazardous materials shall (~~be equal to the round trip cost, adjusted quarterly, of fuel, deck, and engine labor (including overtime and minimum crew callouts, where applicable), supplies, and maintenance~~) closely approximate WSF's total operational costs of providing this service including deck and engine labor, fuel, supplies, maintenance and other operating costs. The basic fare will be based on annually adjusted standard hourly cost of vessel type, multiplied by the length of time the vessel is precluded from other activities due to set up, execution and vessel repositioning for the hazardous materials transport. Incremental labor costs such as crew overtime, or minimum crew callout shall be added to the basic fare if incurred. At no time will the total fare be less than the calculated operational cost of a round trip from point of embarkation to point of disembarkation. If more than one carrier of hazardous materials is on a particular trip, the fare for that trip may be divided among the carriers involved.

**WSR 96-09-025
WITHDRAWAL OF PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed April 9, 1996, 10:40 a.m.]

Notice is hereby given that the State Board of Education is withdrawing Form CR-102 (WSR 96-08-061 filed April 2, 1996) related to proposed amendments to chapter 180-40 WAC governing the procedural due process rights of students.

Larry Davis
Executive Director

**WSR 96-09-032
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed April 10, 1996, 1:18 p.m.]

Continuance of WSR 96-04-084.

Title of Rule: Chapter 388-110 WAC, Contracted residential care services: Assisted living, enhanced adult residential care, and adult residential care.

Purpose: Establishes in rule, contract requirements for the above-listed services which are provided to state-funded residents in licensed boarding homes.

Date of Intended Adoption: April 19, 1996.

April 10, 1996
Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

**WSR 96-09-039
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed April 11, 1996, 9:00 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 308-94 WAC, Snowmobile and off-road and nonhighway vehicles.

Purpose: Repeal WAC 308-94-035 Snowmobile registration—Fee.

Other Identifying Information: Chapter 164, Laws of 1996 (ESB 6566).

Statutory Authority for Adoption: RCW 46.10.210.

Statute Being Implemented: RCW 46.10.040.

Summary: The proposed rule making will repeal WAC 308-94-035 which is no longer required. The registration fee for snowmobiles is a fixed-fee in RCW 46.10.040 and no longer required to be established by rule.

Reasons Supporting Proposal: Repeal rule that is no longer required.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Debra McCurley, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing and Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new section rule is proposed.

Proposal Changes the Following Existing Rules: WAC 308-94-035 is repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The repeal of WAC 308-94-035 does not impose a cost on businesses in an industry. The cost for this effort is transferred to RCW 46.10.040.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the repealed rule is now explicitly and specifically dictated by RCW 46.10.040.

Hearing Location: Conference Room 303, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA, on May 29, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by May 28, 1996, TDD (360) 664-8885.

Submit Written Comments to: Jack Lince, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by May 28, 1996.

Date of Intended Adoption: June 5, 1996.

April 10, 1996
Nancy Kelly, Administrator
Title and Registration Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-94-035 Snowmobile registration—Fee.

WSR 96-09-040
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed April 11, 1996, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-064.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses.

Purpose: Adopt additional veteran remembrance emblems.

Statutory Authority for Adoption: RCW 46.16.319(2).

Statute Being Implemented: RCW 46.16.319.

Summary: The departments of licensing and veteran affairs have agreed to provide veteran remembrance emblems for World War II merchant marines who served in the Pacific War Zone, Atlantic War Zone and the Mediterranean-Middle East War Zone and for recipients of the national defense service ribbon and Southwest Asia service medal.

Reasons Supporting Proposal: To honor veterans that served in our nation's wars and conflicts in these theaters of operation in times of conflict as represented by the additional ribbons.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Debra McCurley, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Departments of Licensing and Veteran Affairs, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new section rule is proposed.

Proposal Changes the Following Existing Rules: WAC 308-96A-505 is amended to authorize additional veteran remembrance emblems for veterans that served in the World War II merchant marines, the Gulf War (Operation Desert Storm) and for veterans that have earned the national defense service ribbon.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendment of WAC 308-96A-505 does not impose a cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The material being adopted is the same subject matter authorized in RCW 46.16.319.

Hearing Location: Conference Room 303, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA, on May 29, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by May 28, 1996, TDD (360) 664-8885.

Submit Written Comments to: Jack Lince, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by May 28, 1996.

Date of Intended Adoption: June 5, 1996.

April 10, 1996
 Nancy Kelly, Administrator
 Title and Registration Services

AMENDATORY SECTION (Amending WSR 91-03-091, filed 1/18/91, effective 2/18/91)

WAC 308-96A-505 Veteran license plate emblems—Available. Veteran remembrance vehicle license plate emblems shall be provided, pursuant to RCW 46.16.319, in ((a)) designs representative of:

(a) The words U.S. veteran, referred to as veteran emblem.

(b) The United States flag waving on a staff without wording, referred to as the flag emblem, and

(c) The campaign ribbon awarded for serving in each of the ((seven medals authorized in RCW 46.16.319)) following campaigns or services referred to as campaign emblems:

World War I victory medal;

Asiatic-Pacific campaign medal, WW II;

European-African-Middle East campaign medal, WW II;

American campaign medal, WW II;

Korean service medal;

Vietnam service medal;

Armed forces expeditionary, after 1958;

Pacific War Zone Bar, WW II merchant marine;

Atlantic War Zone Bar, WW II merchant marine;

Mediterranean-Middle East War Zone Bar, WW II merchant marine;

National defense service ribbon; and

Southwest Asia service medal, Desert Storm.

WSR 96-09-041
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed April 11, 1996, 9:04 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 308-93 WAC, Vessel registration and certificates of title.

Purpose: Repeal WAC 308-93-174 County auditors and subagents—Disposition of application fees.

Other Identifying Information: Chapter 315, Laws of 1996 (SB 6476).

Statutory Authority for Adoption: RCW 88.02.100.

Statute Being Implemented: RCW 46.01.140.

Summary: The proposed rule making will repeal WAC 308-93-174 which is no longer required. The filing fee structure for vessels is transferred to RCW 46.01.140.

Reasons Supporting Proposal: Repeal rule that is no longer required.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Debra McCurley, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new section rule is proposed.

Proposal Changes the Following Existing Rules: WAC 308-93-174 is repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The repeal of WAC 308-93-174 does not impose a cost on businesses in an industry. The cost for this effort is transferred to RCW 46.01.140.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The content of the repealed rule is not explicitly and specifically dictated by RCW 46.01.140.

Hearing Location: Conference Room 303, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA, on May 29, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by May 28, 1996, TDD (360) 664-8885.

Submit Written Comments to: Jack Lince, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by May 28, 1996.

Date of Intended Adoption: June 5, 1996.

April 10, 1996

Nancy Kelly, Administrator
Title and Registration Services

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-93-174 County auditors and sub-agents—Disposition of application fees.

WSR 96-09-043
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed April 11, 1996, 9:25 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 246-338-990 Fees, medical test site rules.

Purpose: To establish in WAC the fees to defray the cost of administering the medical test site licensure program, as mandated under RCW 70.42.090.

Statutory Authority for Adoption: RCW 70.42.090.

Statute Being Implemented: RCW 70.42.090.

Summary: Medical test site rules, WAC 246-338-990 Fees, are amended. The amendment is a fee increase of 5.13%, as allowed under Initiative 601. The fee increase applies to all categories of license.

Reasons Supporting Proposal: RCW 70.42.090 requires the department to set fees at a sufficient level to defray the cost of administering the medical test site licensure program. Increased costs to the program include salary increases and indirect costs. The proposed fee increase will allow the program to operate at the current level of service, which is the minimum required to maintain exemption from federal regulation and assure the quality of clinical laboratory testing.

Name of Agency Personnel Responsible for Drafting: Gail Neuenschwander, Department of Health, (206) 361-

Proposed

2805; Implementation and Enforcement: Martha G. Simon, Department of Health, (206) 361-2806.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The medical test site rule licenses all sites that perform clinical laboratory testing in the state. The state law was passed to take the place of federal regulation (CLIA). The proposed fee increase will generate the necessary revenue to operate the medical test site program at its current level of service, which includes performing biennial inspections of sites and ongoing monitoring of proficiency testing. The current level of activity is necessary to assess and assure the quality of clinical laboratory testing in the state and to maintain exemption from federal regulation. The amount of the proposed 5.13% fee increase ranges from a low of \$5.00 for the lowest category of license to a high of \$282.00 for the highest category of license. All licenses are effective for a two-year period.

Proposal Changes the Following Existing Rules: The proposed amendment increases fees by 5.13% for a two-year license for all categories of licensed medical test sites.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that set or adjust fees or rates pursuant to legislative standards (RCW 34.05.328 (5)(b)(vi)).

Hearing Location: Public Health Laboratory, 1610 N.E. 150th Street, Seattle, WA 98155, on May 21, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jennifer Hart by May 14, 1996, TDD (800) 833-6388, or (206) 361-2802.

Submit Written Comments to: Gail Neuenschwander, 1610 N.E. 150th Street, Seattle, WA 98155, FAX (206) 361-2813, by May 14, 1996.

Date of Intended Adoption: May 21, 1996.

April 10, 1996

Bruce Miyahara

Secretary

AMENDATORY SECTION (Amending WSR 94-17-099, filed 8/17/94, effective 9/17/94)

WAC 246-338-990 Fees. (1) For the purpose of this section, the following words and phrases have the following meanings:

(a) "Accredited by organization" means a testing site is accredited, certified, or licensed by an organization meeting the requirements of WAC 246-338-040, Approval of accreditation bodies;

(b) "Limited testing" means a medical test site performing not more than seven hundred fifty licensed tests per year;

(c) "Low volume" means a medical test site performing greater than seven hundred fifty licensed tests per year, and not more than two thousand licensed tests per year;

(d) "Category A" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and three or less specialties;

(e) "Category B" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and at least four specialties;

(f) "Category C" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and three or less specialties;

(g) "Category D" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and four or more specialties;

(h) "Category E" means a medical test site performing greater than twenty-five thousand, but not more than fifty thousand licensed tests per year;

(i) "Category F" means a medical test site performing greater than fifty thousand, but not more than seventy-five thousand licensed tests per year;

(j) "Category G" means a medical test site performing greater than seventy-five thousand, but not more than one hundred thousand licensed tests per year;

(k) "Category H" means a medical test site performing greater than one hundred thousand, but not more than five hundred thousand licensed tests per year;

(l) "Category I" means a medical test site performing greater than five hundred thousand, but not more than one million licensed tests per year;

(m) "Category J" means a medical test site performing more than one million licensed tests per year;

(n) "Direct staff time" means all state employees' work time, including travel time and expenses involved in functions associated with medical test site licensure or complaint investigation including:

(i) On-site follow up visit; and

(ii) Telephone contacts and staff or management conferences in response to a deficiency statement or complaint.

(2) The department shall assess and collect biennial fees for medical test sites as follows:

(a) Charge fees, based on the requirements authorized under RCW 70.42.090 and this section;

(b) Assess additional fees when a medical test site adds licensed tests that result in a change of category; and

(c) Determine fees according to criteria below:

Certificate of waiver	(\$100)	<u>\$105</u>	per biennium;
Provider-performed			
microscopic procedures	(+50)	<u>158</u>	per biennium;
Limited testing	(500)	<u>526</u>	per biennium;
Low volume	(+000)	<u>1051</u>	per biennium;
Category A	(+500)	<u>1577</u>	per biennium;
Category B	(+800)	<u>1892</u>	per biennium;
Category C	(+200)	<u>2208</u>	per biennium;
Category D	(+2500)	<u>2628</u>	per biennium;
Category E	(+3000)	<u>3154</u>	per biennium;
Category F	(+3500)	<u>3680</u>	per biennium;
Category G	(+4100)	<u>4310</u>	per biennium;
Category H	(+4700)	<u>4941</u>	per biennium;

Category I	((5000))	<u>5257</u>	per biennium;
Category J	((5500))	<u>5782</u>	per biennium;
Accredited by organization	((300))	<u>315</u>	per biennium;
Follow up survey for deficiencies			direct staff time;
Complaint investigation			direct staff time.

(3) The department shall exclude from fee charges the women, infant, and children (WIC) programs performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for food distribution purposes and the Washington state migrant council performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for nutritional evaluation.

WSR 96-09-046
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE
[Filed April 11, 1996, 10:59 a.m.]

Continuance of WSR 96-05-091.

Preproposal statement of inquiry was filed as WSR 95-24-099.

Title of Rule: Annual statements instructions and statements to be filed in electronic form.

Other Identifying Information: Insurance Commissioner Matter No. R 95-18.

Summary: Continuation of adoption date.

Date of Intended Adoption: May 8, 1996.

May [April] 11, 1996

Deborah Senn

Insurance Commissioner

WSR 96-09-053
WITHDRAWAL OF PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed April 12, 1996, 9:31 a.m.]

The Washington Personnel Resources Board (WPRB) hereby withdraws the proposed amendment to WAC 356-15-060 originally filed as WSR 96-02-070 on January 3, 1996, and continued as WSR 96-07-092 filed on March 20, 1996.

If you have any questions, please contact Judy Montoure at 586-1770.

Dennis Karras
Secretary

WSR 96-09-054
PROPOSED RULES
PERSONNEL RESOURCES BOARD
[Filed April 12, 1996, 9:32 a.m.]

Continuance of WSR 96-06-059.

Title of Rule: WAC 356-42-020 Determination of bargaining unit.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

PROPOSED

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 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 May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 12, 1996
Dennis Karras
Secretary

Hearing Location: 4224 6th Avenue S.E., Building 2, RoweSix, Lacey, WA, on June 10, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Suzanne Skinner by June 1, 1996.

Submit Written Comments to: Honorable William A. Harrison, 4224 6th Avenue S.E., Building 2, RoweSix, Lacey, WA, FAX (360) 438-7699, by June 10, 1996.

Date of Intended Adoption: June 11, 1996.

April 11, 1996
Honorable William A. Harrison
Administrative Appeals Judge

WSR 96-09-057
PROPOSED RULES
FOREST PRACTICES
APPEALS BOARD

[Filed April 12, 1996, 2:25 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4) (rules amending agency hearing procedures).

Title of Rule: Forest Practices Appeals Board, rules of procedure.

Purpose: Sets forth rules governing practice and procedure for hearings conducted by the Forest Practices Appeals Board.

Statutory Authority for Adoption: RCW 76.09.230(4).

Statute Being Implemented: Chapter 79.06 RCW.

Summary: Amendment of rules to conform to statutory changes.

Reasons Supporting Proposal: Makes rules consistent with recent statutory changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Honorable William A. Harrison, Environmental Hearings Office, (360) 459-6327.

Name of Proponent: Forest Practices Appeals Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reduces confusion by bringing the rules in conformance with statutory changes.

Proposal Changes the Following Existing Rules: Reflects statutory change that removed option of an informal hearing.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Exempt under ESHB 1010 and [section] 401(2) which states the small business economic impact statement is not required for rules described in RCW 34.05.310(4). RCW 34.05.310 (4)(g)(ii) pertains to rules that adopt, amend or repeal procedural rules for agency hearings.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These procedural rule changes are not significant legislative rules of any of the agencies described in ESHB 1010 and [section] 201 (5)(a)(i) and as these are largely reorganizational changes dictated by statute and changes for clarity, the Environmental Hearings Office is not voluntarily making section 201 (5)(a) applicable to these rules.

AMENDATORY SECTION (Amending WSR 90-23-093, filed 11/21/90, effective 12/22/90)

WAC 223-08-080 Commencing an appeal—Forms. The following forms shall be used in proceedings before the appeals board. The forms, instructions thereon, and descriptive captions are each components of this rule of procedure.

Where any written communication directed to the appeals board is found not to be in conformity with this or another rule of procedure or the requirements of any statute, the appeals board may require the party directing such communication to correct, clarify or amend the same so as to conform. The appeals board may refuse to schedule any conference or hearing hereon until compliance with such requirements, or may issue an order providing for the dismissal of any proceeding upon failure to comply within a specified time.

INDEX TO FORMS

- Form 1 - PETITION FOR CHAIRMAN'S ORDER
- Form 2 - COUNTY APPEAL OF DEPARTMENT APPROVAL
- Form 3 - APPEAL OF STOP-WORK ORDER
- Form 4 - APPEAL OF NOTICE TO COMPLY
- Form 5 - APPEAL OF PENALTY
- Form 6 - DEPARTMENT APPEAL OF COUNTY OBJECTIONS
- Form 7 - APPEAL OF DEPARTMENT APPROVAL OR DISAPPROVAL
- Form 8 - PETITION FOR A DECLARATORY RULING
- Form 9 - PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF RULE
- Form 10 - APPEAL OF HAZARD REDUCTION PLAN

The above forms are neither printed nor furnished by the appeals board but are set out here for copying by those wishing to commence a proceeding. Underlined portions of these forms are instructional, and the matter called for must be supplied by the party commencing the proceeding or his representative.

FORM 1 - For commencing the proceeding described in WAC 223-08-085(1):

NOTICE
COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

PROPOSED

Department of Ecology

PETITION FOR
CHAIRMAN'S
ORDER

Copies of this
Notice were filed with
(1) and (2) and served
upon (3):

I/We have read the
contents to be true.

Represented by:

Name of Representative(s)
Mailing Address
Telephone Number

- (1) Department of
Natural Resources
(date)
- (2) Attorney General
(date)
- (3) Applicant date
(See WAC 223-08-075)

Signed, County
Representative(s)

- 1. This proceeding is authorized by RCW 76.09.100.
- 2. A short and plain statement identifying the forest practice regulations violated, the violator, and how and when such violations occurred.

3. The Department of Natural Resources has not issued a stop work order or notice to comply in the matter of this violation. The Department of Ecology has therefore notified the Department of Natural Resources of such violation. The Department of Natural Resources has failed to take authorized enforcement action, within twenty-four hours of such notice, under RCW 76.09.080, 76.09.090, 76.09.120 or 76.09.130.

4. The chairman is respectfully requested to order the relief to which the Department of Ecology deems itself entitled.

Signed, County Representative(s)

ATTENTION: (Name of Applicant)

Upon receipt of this Notice you are a PARTY to this proceeding before the Forest Practices Appeals Board.

You will be notified of the time and place of hearing and you may argue in favor of your application under the Rules of Procedure found in chapter 223-08 WAC.

Your failure to participate in this proceeding may deprive you of a hearing altogether as the Forest Practices Appeals Board will not permit additional proceedings among the same parties concerning the same forest practices.

A copy of this
Notice was served
upon the Department
of Natural Resources
on (date)

I/We have read the
above and believe the
contents to
be true.

Signed,
Representative(s)

Signed,
Representative(s)

INSTRUCTIONS:

- 1. The application involved as well as the department's Notice of Approval shall be attached to this Notice.
- 2. Where only portions of an application are appealed, the county shall specify precisely the portions appealed.
- 3. Requests for the suspension of department approval pending an appeal shall be made separately by motion or affidavit. (See WAC 223-08-085(2))

FORM 2 - For commencing the proceeding described in WAC 223-08-085(2):

FORM 3 - For commencing the proceeding described in WAC 223-08-085(3):

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of County

Represented by:

Name of Representative
Mailing Address
Telephone Number

COUNTY APPEAL
OF DEPARTMENT
APPROVAL

- 1. This proceeding is authorized by RCW 76.09.050(8).
- 2. ~~((Name County hereby elects a formal/an informal hearing. (See WAC 223-08-155)~~
- 3.) The attached forest practices application was approved by the Department of Natural Resources, and notice of such approval showing the (date) thereof is attached.

~~((4.))~~ 3. Lands within the jurisdiction of name County are affected by the said approval.

~~((5.))~~ 4. A short and plain statement of the grounds upon which the county believes the said approval is unlawful. Statutes, regulations or applications referred to shall be precisely cited.

~~((6.))~~ 5. A demand for the relief to which the county deems itself entitled.

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of Appellant

Mailing Address

Residence or principal
place of business if
different from mailing
address

APPEAL OF
STOP-WORK
ORDER

Represented by:

Name of Representative
Mailing Address
Telephone Number

1. This proceeding is authorized by RCW 76.09.080 (2)(d).

2. ~~((The appellant hereby elects a formal/an informal hearing. (See WAC 223-08-155)~~

3.) A short and plain statement of the grounds upon which the appellant believes the stop-work order is unlawful.

PROPOSED

Statutes, regulations or applications referred to shall be precisely cited.

((4-)) 3. The relief which the appellant believes is warranted.

Copies of this Notice were served upon:

- (1) Department of Natural Resources (date)
- (2) Others (dates) (See WAC 223-08-075)

I/We have read the above and believe the contents to be true.

Signed, Appellant and/or

Signed, Representative

Signed, Appellant and/or

Signed, Representative

INSTRUCTIONS:

1. Where the appealed stop-work order or this Notice cites a forest practices application, the same shall be attached to this Notice.
2. Requests for discontinuance of the stop-work order appealed, pending the outcome of the proceeding, shall be made separately by motion or affidavit. (See WAC 223-08-085(3))
3. Appellant shall sign where indicated except where unavailable to do so, and in any event petitioner's representative shall sign.

FORM 4 - For commencing the proceeding described in WAC 223-08-085(4):

NOTICE

COMMENCING A PROCEEDING Before the FOREST PRACTICES APPEALS BOARD State of Washington

Date

Name of Appellant

Mailing Address:

Residence or Principal Place of Business if Different from Mailing Address

APPEAL OF NOTICE TO COMPLY

Represented by:

Name of Representative

Mailing Address

Telephone Number

1. This proceeding is authorized by RCW 76.09.090.
2. The appellant has had a hearing before the Department of Natural Resources on date and a copy of the final decision issued after such hearing is attached.
3. A short and plain statement of the grounds upon which the appellant believes the Notice to Comply is unlawful. Statutes, regulations or applications referred to shall be precisely cited.
4. The relief which the appellant believes is warranted.

Copies of this Notice were served upon:

- (1) Department of Natural Resources (date)
- (2) Others (dates) (See WAC 223-08-075)

Signed, Appellant and/or

Signed, Representative

INSTRUCTIONS:

1. A copy of the final decision of the department issued after a hearing before the department shall be attached to this Notice.
2. Where the appealed Notice to Comply, the department's final decision, or this Notice cites a forest practices application, the same shall be attached to this Notice.
3. Appellant shall sign where indicated except where unavailable to do so, and in any event appellant's representative shall sign.

FORM 5 - For commencing the proceeding described in WAC 223-08-085(5):

NOTICE

COMMENCING A PROCEEDING Before the FOREST PRACTICES APPEALS BOARD State of Washington

Date

Name of Appellant

Mailing Address

Residence or Principal Place of Business if Different from Mailing Address

APPEAL OF PENALTY

Represented by:

Name of Representative

Mailing Address

Telephone Number

1. This proceeding is authorized by RCW 76.09.170.
2. ~~((The appellant hereby elects a formal/an informal hearing. (See WAC 223-08-155))~~
- 3-)) The appellant has/has not applied in writing to the Department of Natural Resources.

((4-)) 3. A short and plain statement of the grounds upon which the appellant believes the penalty imposed is unlawful or excessive. Statutes, regulations or applications referred to shall be precisely cited.

((5-)) 4. The relief which the appellant believes is warranted.

PROPOSED

Copies of this Notice were served upon:

- (1) Department of Natural Resources
(Date)
- (2) Others (Dates)
(See WAC 223-08-075)

Signed,
Appellant and/or
Signed, Representative

I/We have read the above and believe the contents to be true.

Signed,
Appellant and/or

Signed,
Representative

Copies of this Notice were filed with (1) and (2) and served upon (3):

- (1) Name of County
(date)
- (2) Attorney
General (date)
- (3) Applicant (date)
(See WAC 223-08-075)

Signed, Representative(s)
ATTENTION: (Name of Applicant)

I/We have read the above and believe the contents to be true.

Signed,
Representative(s)

INSTRUCTIONS:

1. A copy of the department's notice imposing the penalty appealed shall be attached to this Notice.
2. Where the appellant has applied to the department for remission or mitigation of the penalty appealed, copies of the appellant's application and the department's disposition shall be attached to this Notice.
3. Where the Notice or any document required to be attached cites a forest practices application, the same shall be attached to this Notice.
4. Appellant shall sign where indicated except where unavailable to do so, and in any event appellant's representative shall sign.

FORM 6 - For commencing the proceeding described in WAC 223-08-085(6):

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Department of Natural Resources
Public Lands Building
Olympia, Washington 98504

Represented by:

Name of Representative
Mailing Address
Telephone Number

DEPARTMENT
APPEAL OF
COUNTY
OBJECTIONS

1. This proceeding is authorized by RCW 76.09.050(7).
2. ~~((The department hereby elects a formal/an informal hearing. (See WAC 223-08-155)~~
- 3.) The attached objections, concerning the attached forest practices application, were received by the department from name County on date.
- ~~((4.))~~ 3. A short and plain statement of the grounds upon which the department believes that the county objections are unfounded. Authority shall be precisely cited.
- ~~((5.))~~ 4. The relief which the appellant believes is warranted.

Upon receipt of this Notice you are a PARTY to this proceeding before the Forest Practices Appeals Board.

You will be notified of the time and place of hearing and you may argue in favor of your application under the Rules of Procedure found in chapter 223-08 WAC.

Your failure to participate in this proceeding may deprive you of a hearing altogether as the Forest Practices Appeals Board will not permit additional proceedings among the same parties concerning the same forest practices.

INSTRUCTIONS:

1. Copies of the appealed county objections and the forest practices application to which they pertain shall be attached to this Notice.
2. A copy of the appealed county objections shall accompany the copy of this Notice served upon the applicant pursuant to WAC 223-08-075.

FORM 7 - For commencing the proceeding described in WAC 223-08-085(7):

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of Appellant
Mailing Address

Residence or principal
place of business if
different from mailing
address

APPEAL OF
DEPARTMENT
APPROVAL OR
DISAPPROVAL

Represented by:

Name of Representative
Mailing Address
Telephone Number

1. This proceeding is authorized by RCW 76.09.220(8).
2. ~~((The appellant hereby elects a formal/an informal hearing. (See WAC 223-08-155)~~
- 3.) The attached forest practices application was approved/disapproved by the Department of Natural Resources on date.
- ~~((4.))~~ 3. A short and plain statement of the grounds upon which the appellant believes the approval or disapproval is improper. Authority shall be precisely cited.

PROPOSED

~~((5-))~~ 4. The relief which the appellant believes is warranted.

Copies of this Notice were filed with (1) and (2) and served upon (3):

- (1) Department of Natural Resources (date)
- (2) Attorney General (date)
- (3) Applicant (dates)
(See WAC 223-08-075)

I/We have read the above and believe the contents to be true.

Signed,
Appellant and/or

Signed,
Representative

Signed, Appellant and/or
Signed, Representative

ATTENTION: (Name of Applicant)

Upon receipt of this Notice you are a PARTY to this proceeding before the Forest Practices Appeals Board.

You will be notified of the time and place of hearing and you may argue in favor of your application under the Rules of Procedure found in chapter 223-08 WAC.

Your failure to participate in this proceeding may deprive you of a hearing altogether as the Forest Practices Appeals Board will not permit additional proceedings among the same parties concerning the same forest practices.

INSTRUCTIONS:

- 1. A copy of the forest practices application involved shall be attached to this Notice.
- 2. The appellant shall sign where indicated except where unavailable to do so, and in any event the appellant's representative shall sign.

FORM 8 - For commencing the proceeding described in WAC 223-08-085(8).

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of Petitioner
Mailing Address

Residence or principal place of business within the state if different from mailing address

Represented by:

Name of Representative
Mailing Address
Telephone Number

PETITION
FOR A
DECLARATORY
RULING

1. This proceeding is authorized by RCW 34.05.240. The petition shall comply with the requirements set forth in RCW 34.05.240(1).

2. State all rules or statutes brought into issue by this Notice.

3. State the facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of the state.

4. State the relief demanded.

Copies of this Notice were served upon:

- (1) Department of Natural Resources (date)
- (2) Others (dates) Verification
(See WAC 223-08-075)

Signed, Petitioner and/or
Signed, Representative

INSTRUCTIONS:

- 1. The petitioner shall sign where indicated except where unavailable to do so, and in any event the petitioner's representative shall sign.
- 2. This Notice shall be verified in the manner prescribed for certification of complaints in the Superior Courts of this state.
- 3. This Notice shall be on white paper, either 8-1/2" x 11" or 8-1/2" x 13" in size.

FORM 9 - For commencing the proceeding described in WAC 223-08-085(9).

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of Petitioner
Mailing Address

Residence or principal place of business within the state if different from mailing address

Represented by

Name of Representative
Mailing Address
Telephone Number

PETITION FOR
ADOPTION
AMENDMENT
REPEAL
OF RULE

- 1. This proceeding is authorized by RCW 34.05.330.
- 2. State whether petition is for rule adoption, amendment or repeal.
- 3. If adoption or amendment is sought, state the desired new rule in its entirety. Where amendment is sought, new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. If repeal is sought, the rule proposed to be repealed shall be set forth in its entirety or referred to by rule number.

PROPOSED

- 4. State concisely the reasons for the action sought.
- 5. State the interest of the petitioner in the subject matter of the rule.

Signed, Petitioner and/or

Signed, Representative

INSTRUCTIONS:

- 1. The petitioner shall sign where indicated except where unavailable to do so, and in any event the petitioner's representative shall sign.
- 2. This Notice shall be on white paper, either 8-1/2" x 11" or 8-1/2" x 13" in size.

FORM 10 - For commencing the proceeding described in WAC 223-08-085(10).

NOTICE

COMMENCING A PROCEEDING
Before the
FOREST PRACTICES APPEALS BOARD
State of Washington

Date

Name of Party

Mailing Address

Residence or principal
place of business within
the state if different
from mailing address

Represented by

Name of Representative

Mailing Address

Telephone Number

APPEAL OF
FINAL HAZARD
REDUCTION PLAN

- 1. This proceeding is authorized by RCW 76.09.310(6).
- 2. The relief which the appellant believes is warranted.

This Notice was
transmitted to
Department of Natural Resources
on date.

I/We have read the above and believe the contents to be true.

Signed

Appellant and/or

Representative

INSTRUCTIONS:

- 1. ATTACH THE FINAL HAZARD REDUCTION PLAN TO THE NOTICE OF APPEAL IF THE PLAN IS AVAILABLE.
- 2. APPELLANT SHALL SIGN WHERE INDICATED EXCEPT WHERE UNAVAILABLE TO DO SO, AND IN ANY EVENT APPELLANT'S REPRESENTATIVE SHALL SIGN.

AMENDATORY SECTION (Amending WSR 90-23-093,
filed 11/21/90, effective 12/22/90)

WAC 223-08-257 Appeals to the courts—Certification of record. Upon receipt of a copy of the notice of appeal to the superior court, or notice of acceptance of the certificate of appealability by the court of appeals, the appeals board will certify the record. This will not include

a transcript until the appealing party arranges printing of the transcript and assumes its cost.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 223-08-150 Hearing—Types of hearings.
- WAC 223-08-155 Hearing—Election of type.

WSR 96-09-064
PROPOSED RULES
BOARD OF ACCOUNTANCY
[Filed April 15, 1996, 3:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-05-082.

Title of Rule: WAC 4-25-722 CPA examination—Content.

Purpose: To specify the subjects and fields of knowledge tested by the certified public accountant (CPA) examination required by RCW 18.04.105 (1)(c).

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105.

Statute Being Implemented: RCW 18.04.105(2).

Summary: To bring the rule into conformity with the new examination administration contract and the national model rules.

Reasons Supporting Proposal: The board contracted in December 1995 with a private entity to administer the CPA examination to Washington's candidates. The current rule language is inconsistent with the new examination administration contract. Portions of the rule are also inconsistent with model rules specifying examination content. The agency proposes to amend or repeal portions of its CPA examination administration rule to conform with the contracting requirements and to national model rules. The proposed changes will either impose no new requirement or reduce an existing requirement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.105 directs the board to grant a certified public accountant (CPA) certificate to persons who among other things pass a written examination and to specify examination content. The amended language brings the board's rule into conformity with national model rules thereby promoting uniformity between states and interstate reciprocity.

Proposal Changes the Following Existing Rules: Deletes reference to the board's awarding a percentage of the total grading points based on writing skills; deletes administration procedures for the use of calculators.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule,

PROPOSED

defining the contents of the CPA examination, is an interpretative rule that requires no action on the part of any business and therefore will have negligible economic impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules the content of which is explicitly and specifically dictated by statute. The proposed rule mirrors the language set forth in RCW 18.04.105.

Hearing Location: Bank of California Building, 900 4th Avenue, 24th Floor, Attorney General Training Center, Seattle, WA, on May 23, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by May 16, 1996, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Carey L. Rader, P.O. Box 9131, Olympia, WA 98507-9131, FAX (360) 664-9190, by May 23, 1996.

Date of Intended Adoption: May 23, 1996.

March 29, 1996

Carey L. Rader
Executive Director

AMENDATORY SECTION (Amending WSR 93-22-047, filed 10/28/93, effective 11/28/93)

WAC 4-25-722 CPA examination—Content (~~and administration~~)). (~~The following provisions take effect May 1, 1994.~~

~~(1) Content. The CPA examination will include sections on:~~

~~(a) Financial accounting and reporting for business enterprises;~~

~~(b) Accounting and reporting (including but not limited to taxes, cost accounting, and non profit entity accounting);~~

~~(c) Business law and professional responsibilities; and~~

~~(d) Auditing.~~

~~(2) Writing skills. The board will award a percentage of the total grading points available based on writing skills for the business law and professional responsibilities, auditing, and financial accounting and reporting for business enterprises sections. Grading points awarded for writing skills will be included within the overall grade reported to the examination candidate for each of the three sections.—~~

~~(3) Use of calculators. The board will issue calculators to candidates for use on the financial accounting and reporting for business enterprises and the accounting and reporting sections. Board issued calculators will remain board property. Board employees will collect calculators after exam sessions. In the interests of exam security and fairness, a candidate may only use a calculator issued by the board. The board may allow a candidate to use a calculator not issued by the board only if necessary to comply with state or federal accommodation requirements and only if the board believes the substituted calculator will not breach exam security.)~~ The written examination required by RCW 18.04.105 shall include tests of a CPA candidate's knowledge of accounting and auditing standards and such related subjects as the board may deem appropriate.

WSR 96-09-065

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed April 15, 1996, 3:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-05-081.

Title of Rule: WAC 4-25-530 Fees.

Purpose: To set fees at a level adequate to pay the costs of administering chapter 18.04 RCW.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.065, 18.04.195(6).

Statute Being Implemented: RCW 18.04.065, 18.04.105.

Summary: To amend the fees the board charges to take the certified public accountant (CPA) examination; to add limited liability companies and limited liability partnerships to the board's schedule of CPA firm registration fees; to add a fee for dishonored checks.

Reasons Supporting Proposal: 1. The board contracted in December 1995 with a private entity (CPA examination services (CPAES)) to provide the Uniform CPA Examination to Washington candidates. The competitively bid contract with CPAES contains a higher fee schedule than that contained in existing rule WAC 4-25-530. The board's legal counsel opines that the board should amend its fee schedule to conform to the CPAES contract. 2. The governor signed bills in 1994 and 1995 authorizing a CPA firm to practice public accounting in the legal forms of a limited liability company or a limited liability partnership (in addition to existing forms of practices, proprietorship, general partnership, professional corporation). New or existing firms electing the new organizational forms will be subject to the same fees that would have applied had they organized as traditional proprietorship, general partnership, and professional corporation entities.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, 210 East Union, Suite H, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.065 directs the board to "set its fees at a level adequate to pay the costs of administering this chapter" (that is, chapter 18.04 RCW, the Accountancy Act). As a matter of policy, the board attempts to set its fees to cover the costs of the various services related to each fee. The primary change proposed by this rule amendment simply sets CPA examination fees at the level negotiated with the CPA examination administration vendor. The second change maintains fee parity among different legal forms of CPA firms. The third change creates an "NSF" check fee to recover the extra costs created by issuers of "NSF" checks.

Proposal Changes the Following Existing Rules: Increases the fees for taking the CPA examination; adds limited liability companies and limited liability partnerships to the fee schedule; adds a fee for dishonored checks, including insufficient funds or closed accounts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed fee

increase for the CPA examination (\$40 increase for first time candidates) will not impose more than minor costs on more than 20% of all industries or more than 10% of any one agency and is therefore outside the scope of RCW 19.85-030. The fees proposed for limited liability companies and limited liability partnerships are not fee increases and therefore have no impact on small businesses. The "NSF" fee will not impose more than minor costs on more than 20% of all industries or more than 10% of any one agency and is therefore outside the scope of RCW 19.85.030.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that set or adjust fees or rates pursuant to legislative standards.

Hearing Location: Bank of California Building, 900 4th Avenue, 24th Floor, Attorney General Training Center, Seattle, WA, on May 23, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by May 16, 1996, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Carey L. Rader, P.O. Box 9131, Olympia, WA 98507-9131, FAX (360) 664-9190, by May 23, 1996.

Date of Intended Adoption: May 23, 1996.

March 29, 1996
Carey L. Rader
Executive Director

AMENDATORY SECTION (Amending WSR 93-12-075, filed 5/27/93, effective 7/1/93)

WAC 4-25-530 Fees. Commencing July 1, (~~1993~~) 1996, the board shall charge the following fees:

- (1) CPA examination applications:
 - ~~((a)) One or two sections \$ 120~~
 - ~~((b)) Three sections \$ 140~~
 - ~~((c)) Four sections \$ 160~~
 - ~~((a)) First-time \$ 200~~
 - ~~((b)) Reexamination, four sections \$ 180~~
 - ~~((c)) Reexamination, three sections \$ 155~~
 - ~~((d)) Reexamination, two sections \$ 135~~
 - ~~((e)) Reexamination, one section \$ 120~~
 - ~~((f)) Administration of examination for out-of-state applicants(~~per section~~) \$ ~~(40)~~ 75~~
- (2) Application for certificate \$ 50
- (3) Application for certificate by reciprocity from other jurisdictions \$ 150
- (4) Biennial license to practice public accounting, includes certificate renewal fee \$ 80
- (5) Biennial certificate renewal \$ 25
- (6) Biennial firm license:
 - (a) Sole proprietorships (with one or more employees) \$ 60
 - (b) Partnerships and limited liability partnerships \$ 60
 - (c) P.S. corporations and limited liability companies \$ 60
 - (d) Amendment to firm license \$ 10
 - (7) Copies of records, per page \$0.10
 - (8) Printed listing of CPAs, CPA firms, CPA exam candidates, set up charge plus \$.01/record \$ 50
 - (9) Computer diskette listing of CPAs, CPA firms, CPA exam candidates \$ 50
 - (10) Applications for reinstatement \$ 25
 - (11) Replacement CPA certificates \$ 25

- (12) Quality assurance review program per financial statement report review (includes monitoring reviews for up to two years) \$ 225
- (13) Late or incomplete individual or firm renewal application, per month or part thereof, to a maximum of \$200 per application \$ 25
- (14) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) \$ 25

Note: The board may waive late filing fees for good cause.

WSR 96-09-066
PROPOSED RULES
BOARD OF ACCOUNTANCY
[Filed April 15, 1996, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-05-083.

Title of Rule: WAC 4-25-750 Firm license.

Purpose: To prescribe the procedure to be followed to register and maintain offices established for the practice of public accounting in the state of Washington.

Statutory Authority for Adoption: RCW 18.04.055(3), 18.04.205(3).

Statute Being Implemented: RCW 18.04.205(3), 18.04.195.

Summary: Lists the forms of practice in which a certified public accountant (CPA) may practice public accountancy; defines the application requirements a CPA must follow to obtain a firm license.

Reasons Supporting Proposal: RCW 18.04.195 was amended in 1994 to authorize a CPA firm to practice public accounting in the legal form of a limited liability company. In 1995, the governor signed a bill authorizing a CPA firm to practice public accounting in the legal form of a limited liability partnership. The board's existing firm registration rule (WAC 4-25-750), in permitting a CPA firm to practice only as a proprietorship, partnership, or professional corporation, conflicts with these new statutes. The proposed changes would conform current rules to new statutes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carey L. Rader, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.205(3) directs the board to prescribe the procedures to be followed to register and maintain offices established for the practice of public accounting in Washington state. RCW 18.04.195 requires CPA firms to obtain, and renew, licenses to practice public accounting.

Proposal Changes the Following Existing Rules: Adds limited liability companies and limited liability partnerships to the list of recognized CPA firm organization; adds language to recognize future legal entities authorized by statute; reorganizes rule to list format to promote readability.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will have negligible economic impact on the accounting profession.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that clarify language of a rule without changing its effect.

Hearing Location: Bank of California Building, 900 4th Avenue, 24th Floor, Attorney General Training Center, Seattle, WA, on May 23, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by May 16, 1996, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Carey L. Rader, P.O. Box 9131, Olympia, WA 98507-9131, FAX (360) 664-9190, by May 23, 1996.

Date of Intended Adoption: May 23, 1996.

March 29, 1996
Carey L. Rader
Executive Director

AMENDATORY SECTION (Amending WSR 93-22-089, filed 11/2/93, effective 12/3/93)

WAC 4-25-750 Firm license. ~~(1) A licensee may only practice public accountancy ((only)) in a ((proprietorship, a partnership or a professional corporation meeting the requirements of the act))~~ CPA firm organized as:

- (a) A proprietorship;
- (b) A partnership;
- (c) A professional corporation;
- (d) A limited liability company;
- (e) A limited liability partnership; or
- (f) Some other form of legal entity authorized by statute for use by a CPA firm.

~~((4))~~ (2) A CPA firm shall apply to the board for a license to practice public accountancy within ninety days of formation. A CPA firm shall apply for renewal of its license no later than sixty days prior to expiration of the firm's current license. The board will not accept a firm license renewal application unless it is accompanied by all applicable renewal and late filing fees.

~~((2) Applications shall include the firm name; addresses and telephone numbers of the main office and any branch offices of the firm; the name of the manager of each branch office; owners' names and the states in which they hold CPA licenses; names of corporate shareholders, directors, and officers; and, in the case of corporations, a certified copy of the articles of incorporation and bylaws.)~~

(3) An application for a firm license shall include the:

- (a) Firm name;
- (b) Addresses and telephone numbers of the main office and any branch offices of the firm;
- (c) Name of the manager of each branch office;
- (d) Owners' names and the states in which they hold CPA licenses;
- (e) Names of corporate directors, limited liability company managers, and all firm officers; and
- (f) Type of legal organization under which the firm operates (such as, general partnership or limited liability company).

~~(4) Firm licenses expire on June 30 of ((every other year))~~ the second year after the board issues a firm's initial license and on June 30 of each second year after the initial license expires.

~~((4))~~ (5) A CPA firm shall file with the board a written notification of any of the following events within ninety days after its occurrence:

- (a) Formation or dissolution of a CPA firm;
- (b) Admission of an owner;
- (c) Retirement or death of an owner;
- (d) Any change in the name of the firm;
- (e) Change in the management of any branch office;
- (f) Opening, closing, or relocating of a branch office;

and
(g) The occurrence of any event that would cause the firm to be in violation of the provisions of the act or these rules.

A change in the legal form of a firm constitutes a new firm. Accordingly the new firm shall within ninety days of the change file an application for a firm license and pay the applicable fee.

WSR 96-09-074

PROPOSED RULES

CASCADIA COMMUNITY COLLEGE

[Filed April 16, 1996, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-22-025.

Title of Rule: (1) Board of trustees; (2) Practice and procedure; (3) Withholding services for outstanding debts; (4) Organization; (5) Designation of rules coordinator; (6) Access to public records; (7) Grievance rules—Title IX; (8) Grievance procedures—Handicapped; (9) State Environmental Policy Act rules.

Purpose: Chapter 132Z-104 WAC, Board of trustees: WAC 132Z-104-101, designate time and place of board meetings, WAC 132Z-104-020, procedure for placing items on board agenda, and WAC 132Z-104-030, delegation to district president.

Chapter 132Z-108 WAC, Practice and procedure: WAC 132Z-108-010 to 132Z-108-080, establish procedures for adjudicative proceeding.

Chapter 132Z-122 WAC, Withholding services for outstanding debts: WAC 132Z-122-010, describe policy, WAC 132Z-122-020, procedure for notification, and WAC 132Z-122-030, procedure for brief adjudicative proceeding.

Chapter 132Z-133 WAC, Organization: WAC 132Z-133-010, describe organization, operation, and information.

Chapter 132Z-134 WAC, Designation of rules coordinator: WAC 132Z-134-010, designate rules coordinator.

Chapter 132Z-276 WAC, Access to public records: WAC 132Z-276-010 to 132Z-276-140, procedures to access public records.

Chapter 132Z-300 WAC, Grievance rules—Title IX: WAC 132Z-300-010 to 132Z-300-040, establish Grievance rules—Title IX.

Chapter 132Z-310 WAC, Grievance procedures—Disability: WAC 132Z-310-010 to 132Z-310-040, establish Grievance procedures—Disability.

Chapter 132Z-325 WAC, State Environmental Policy Act rules: WAC 132Z-325-010, implement State Environmental Policy Act.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Summary: These rules describe the organization of Cascadia Community College and establish required procedures.

Reasons Supporting Proposal: Rules designated above are required by state law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Habura, President's Office, Northshore Center, (206) 402-3870.

Name of Proponent: Cascadia Community College, 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 organization of Cascadia Community College and establish procedures related to (1) withholding services for outstanding debts; (2) access to public records; (3) grievance rules and procedures; and (4) State Environmental Policy Act.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Has no impact on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not pertain.

Hearing Location: Cascadia Community College, Room 1, Northshore Center, 22002 26th Avenue S.E., Bothell, WA 98026, on May 22, 1996, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Margaret Flanagan by May 21, 1996, (206) 402-3870.

Submit Written Comments to: Margaret Flanagan, c/o Northshore Center, 22002 26th Avenue S.E., Suite 101, Bothell, WA 98026, FAX (206) 485-7326, by May 21, 1996.

Date of Intended Adoption: June 10, 1996.

April 15, 1996
Margaret Flanagan
Rules Coordinator

**Title 132Z WAC
COMMUNITY COLLEGES—CASCADIA COMMUNITY COLLEGE**

**Chapter 132Z-104 WAC
BOARD OF TRUSTEES**

NEW SECTION

WAC 132Z-104-010 Time and place of board meetings. The board of trustees shall hold one regular meeting on the second Monday of each month and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with law.

All regular and special meetings of the board of trustees shall be held at the Shoreline Community College Northshore Center, 22002 26th Ave. SE, Suite 101, Bothell,

WA 98021, unless scheduled elsewhere, and are open to the general public, except for lawful executive sessions.

No official business may be conducted by the board of trustees except during a regular or special meeting.

NEW SECTION

WAC 132Z-104-020 Request for items to be placed on board agenda. Anyone, other than a board member or a representative of the president's office wishing an item placed on the agenda of a board meeting, must have a written request in the office of the board secretary no later than twelve o'clock noon fourteen business days before the next scheduled meeting of the board. The secretary will relate the request to the chair of the board as soon as feasible. The chair will determine whether the item is to be placed on the agenda. The chair or designee will notify the individual initiating the request as to whether or not the item will be placed on the agenda.

NEW SECTION

WAC 132Z-104-030 Delegation to district president. The board of trustees delegates to the district president its authority and responsibility to administer Cascadia Community College District 30 in accordance with laws, policies, and rules approved by the board of trustees. At the operational level, the president has final administrative authority over all matters affecting the college district.

**Chapter 132Z-108 WAC
PRACTICE AND PROCEDURE**

NEW SECTION

WAC 132Z-108-010 Adoption of model rules of procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250 are adopted for use at this college. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules previously adopted by this college, the model rules prevail.

NEW SECTION

WAC 132Z-108-020 Appointment of presiding officers. The president or designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, the president or designee shall designate one person to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 132Z-108-030 Method of recording. Proceedings shall be recorded by a method determined by the presiding officer, among those available under the model rules of procedure.

NEW SECTION

WAC 132Z-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. An application shall include the signature of the applicant, the nature of the matter for which an adjudicative proceeding is sought, and an explanation of the facts involved.

Application forms are available at the following address:

Cascadia Community College
c/o Shoreline Community College Northshore Center
22002 26th Ave. SE, Suite 101
Bothell, WA 98021

Written application for an adjudicative proceeding should be submitted to the above address within twenty calendar days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

NEW SECTION

WAC 132Z-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are adopted by reference. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings;
- (4) Parking violations;
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in college-sponsored events.

NEW SECTION

WAC 132Z-108-060 Discovery. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall refer to the civil rules of procedure. The presiding officer may control the frequency and nature of discovery permitted, and order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 132Z-108-070 Procedure for closing parts of the hearings. Any party may apply for a protective order to close part of a hearing. The party making the request shall state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten working days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons in writing within twenty working days of receiving the request.

NEW SECTION

WAC 132Z-108-080 Recording devices. No cameras or recording devices are allowed in those parts of proceedings that the presiding officer has determined shall be closed under WAC 132Z-108-070, except for the method of official recording selected by the college.

**Chapter 132Z-122 WAC
WITHHOLDING SERVICES FOR OUTSTANDING
DEBTS**

NEW SECTION

WAC 132Z-122-010 Policy. If any person, including any staff, student or former student, is indebted to the district for an outstanding overdue debt, the district need not provide any further services of any kind to such individual, including but not limited to transmitting files, records, transcripts or other services which have been requested by such person.

NEW SECTION

WAC 132Z-122-020 Notification. (1) Upon receiving a request for services where there is an outstanding debt due to the district from the requesting person, the district shall notify the person by first-class mail that the services will not be provided since there is an outstanding debt due. The person shall be told that until the debt is satisfied, requested services will not be provided.

(2) The letter of notification shall also state that the person has a right to a brief adjudicative proceeding before a person designated by the president of the district. The proceeding must be requested within twenty days of the date of mailing notification of refusal to provide services.

NEW SECTION

WAC 132Z-122-030 Procedure for brief adjudicative proceeding. Upon receipt of a timely request for a hearing, the person designated by the president shall have the records and files of the college available for review and shall hold an informal hearing concerning whether the individual in fact owes any outstanding debts to the college. The hearing must be conducted within ten working days of the request for a hearing. After the informal hearing, a decision shall be rendered by the president or designee indicating whether in fact the college is correct in withholding services for the outstanding debt. If the outstanding debt is owed by the individual involved, no further services shall be provided. Notification of this decision shall be sent to the individual within five working days after the hearing. This hearing shall constitute a brief adjudicative proceeding established by the Administrative Procedure Act at RCW 34.05.482 through 34.05.494.

**Chapter 132Z-133 WAC
ORGANIZATION**

NEW SECTION

WAC 132Z-133-010 Organization—Operation—Information. (1) Organization. Cascadia Community College is established in Title 28B RCW as a public institution of higher education. The college is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the college. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

Cascadia Community College
c/o Shoreline Community College Northshore Center
22002 26th Ave. SE, Suite 101
Bothell, WA 98021

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(3) Information. Additional information about Cascadia Community College District 30 may be obtained by calling (206) 402-3870, or by addressing a request to:

Cascadia Community College
c/o Shoreline Community College Northshore Center
22002 26th Ave. SE, Suite 101
Bothell, WA 98021

**Chapter 132Z-134 WAC
DESIGNATION OF RULES COORDINATOR**

NEW SECTION

WAC 132Z-134-010 Rules coordinator. The rules coordinator for Cascadia Community College as designated by the president is:

The Executive Assistant to the President
Cascadia Community College
c/o Shoreline Community College Northshore Center
22002 26th Ave. SE, Suite 101
Bothell, WA 98021

**Chapter 132Z-276 WAC
ACCESS TO PUBLIC RECORDS**

NEW SECTION

WAC 132Z-276-010 Purpose. The purpose of this chapter is to ensure that Cascadia Community College complies with the provisions of chapter 42.17 RCW and in particular with those sections of that chapter dealing with public records.

NEW SECTION

WAC 132Z-276-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds or symbols, combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, disks, drums and other documents.

(3) "Cascadia Community College" is an agency organized by statute pursuant to RCW 28B.50.040. Cascadia Community College shall hereafter be referred to as the "district." Where appropriate, the term "district" also refers to the staff and employees of the district.

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.

NEW SECTION

WAC 132Z-276-030 Description of central and field organization of Cascadia Community College District No. 30. (1) Cascadia Community College is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the district is located on the college campus within the county of Snohomish, Washington. The college campus likewise comprises the central headquarters for all operations of the district.

(2) The district is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets at least once each month, as provided in WAC 132Z-104-010. The board of trustees employs a president, an administrative staff, instructors, and other employees. The board of trustees takes such actions and promulgates such rules, and policies in harmony with the rules established by the state board for community and technical colleges, as are necessary to the administration and operation of the district.

(3) The president of the district is responsible to the board of trustees for the operation and administration of the district.

NEW SECTION

WAC 132Z-276-040 Operations and procedures. Formal decision-making procedures are established by the board of trustees through rules promulgated in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act.

NEW SECTION

WAC 132Z-276-050 Public records available. All public records of the district, as defined in this chapter, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 or other statutes.

NEW SECTION

WAC 132Z-276-060 Public records officer. The district's public records shall be in the charge of the public records officer designated by the chief administrative officer of the district. The person so designated shall be located in the district administrative office. The public records officer shall be responsible for the following: Implementation of the district's rules regarding release of public records, coordinating district employees in this regard, and generally ensuring compliance by district employees with the public records disclosure requirements in chapter 42.17 RCW.

NEW SECTION

WAC 132Z-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and holidays established by the college calendar.

NEW SECTION

WAC 132Z-276-080 Requests for public records. In accordance with the requirements of RCW 42.17.290 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at the district administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

NEW SECTION

WAC 132Z-276-090 Copying. No fee shall be charged for the inspection of public records. The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records and such charges shall not

exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official. All charges must be paid by money order, cashier's check, or cash in advance.

NEW SECTION

WAC 132Z-276-100 Determination regarding exempt records. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132Z-276-080 is exempt pursuant to the provisions set forth in RCW 42.17.310 or other statute. Such determination may be made in consultation with the public records officer, president of the college district, or an assistant attorney general assigned to the district.

(2) Pursuant to RCW 42.17.260, the district reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy or impair a vital governmental interest: *Provided, however,* In each case, the justification for the deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the college, within five business days, either:

- (a) Provides the record;
- (b) Acknowledges receipt of the request and provides a reasonable estimate of the time the college will require to respond to the request; or
- (c) Denies the request.

(4) All denials of request for public records must be accompanied by a written statement, signed by the public records officer or designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the public record withheld.

NEW SECTION

WAC 132Z-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the president or designee.

(3) Within two business days after receiving the written request by a person petitioning for a prompt review of a decision denying a public record, the president or designee, shall complete such review.

(4) During the course of the review the president or designee shall consider the obligations of the district to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW

42.17.310 or other pertinent statutes, and the provisions of the statute which require the district to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

NEW SECTION

WAC 132Z-276-120 Protection of public records. Requests for public records shall be made at the administrative office of the district at Shoreline Community College Northshore Center, 22002 26th Ave. SE, Suite 101, Bothell, WA 98021. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 132Z-276-090.

NEW SECTION

WAC 132Z-276-130 Records index. (1) The district has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the district after January 10, 1994:

- (a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
 - (b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;
 - (c) Administrative staff manuals and instructions to staff that affect a member of the public;
 - (d) Planning policies and goals, and interim and final planning decisions;
 - (e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and
 - (f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.
- (2) The current index maintained by the district shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 132Z-276-140 Adoption of form. The district hereby adopts for use by all persons requesting inspection and/or copying or copies of its records the following form:

**REQUEST FOR PUBLIC RECORD TO
Cascadia Community College**

(a)

Name (please print)	Signature
---------------------	-----------

.....

Name or Organization, if applicable
.....

Mailing Address of Applicant	Phone Number
------------------------------	--------------

(b)

Date Request Made	Time of Day Request Made
-------------------	--------------------------

(c) Nature of Request

.....

(d) Identification Reference on Current Index (Please describe)
.....

.....

(e) Description of Record, or Matter, Requested if not Identifiable by Reference to the
.....

Request: APPROVED ... DENIED ... Date

By

Name	Title
------	-------

Reasons for Denial:

.....

Referred to Date

By

Name	Title
------	-------

**Chapter 132Z-300 WAC
GRIEVANCE RULES—TITLE IX**

NEW SECTION

WAC 132Z-300-010 Preamble. Cascadia Community College is covered by Title IX of the Civil Rights Act of 1964 prohibiting sex discrimination in education. Applicants for admission, enrolled students, applicants for employment, or employees of Cascadia Community College who believe they have been discriminated against on the basis of sex may lodge an institutional grievance by following the procedures contained in this chapter.

NEW SECTION

WAC 132Z-300-020 Informal procedure. All employees and students should feel free to discuss perceived discrimination with the individual immediately in charge, such as the first-line supervisor or instructor, to see if the situation can be resolved informally. Employees and students may also consult directly with the district's affirmative action officer or designee without making a formal written complaint. Employees and students are not required

to use the informal process and may go directly to the formal procedure.

Any district official receiving a discrimination complaint shall contact the affirmative action officer or designee as soon as reasonably convenient. The district official shall arrange for the complainant to receive a copy of the complaint procedure.

NEW SECTION

WAC 132Z-300-030 Formal procedure. Step one: Employees and students must make a written complaint concerning discriminatory behavior to the affirmative action officer or designee.

(1) Complaints may be held in confidence only to the extent allowed under Washington's public disclosure law, chapter 42.17 RCW. Formal action against the person accused may not be taken on behalf of the complainant unless the complainant consents to be identified to the one accused in connection with the investigation.

(2) The complainant may bring a person of his or her choice to the initial or subsequent complaint meetings.

(3) The affirmative action officer or designee shall give a copy of these regulations and any applicable board policy to the person making the formal complaint and to the accused.

(4) The result of that consultation and any investigation made may be communicated to the complainant before any further action is taken.

(5) An informal hearing may be substituted for investigation if the complainant and the accused agree. The affirmative action officer or designee will be responsible for investigating the complaint and discussing the complaint with the accused. The affirmative action officer will make a written recommendation to the president within a reasonable time following the close of the investigation or hearing.

(6) Appropriate corrective measures will be decided by the president of the district upon consultation with the affirmative action officer and the appropriate administrators or supervisors involved. If an accused employee or student disagrees with the determination or appropriateness of the corrective measures, that individual may contest those measures through the appropriate staff grievance procedures, if they are covered by an agreement, or the student disciplinary code.

(7) Information will be entered in the personnel or student file only to the extent that a formal reprimand or other disciplinary action has been taken. If no disciplinary action is taken, the affirmative action officer will keep a record of the investigation accessible to the president, the complainant and the accused for a period of three years and then that record will be destroyed. If a formal complaint is filed with an outside state or federal agency, files will be maintained until the complaint is resolved. When such files are used, written notice will be placed in the file indicating the person using the file and the date used.

NEW SECTION

WAC 132Z-300-040 Other remedies. These procedures outlined in WAC 132Z-300-010 through 132Z-300-030, are internal district procedures and, as such, serve to resolve complaints within the district's administrative

framework. These procedures do not replace an individual's right to timely file a complaint with an external agency such as the Office of Civil Rights, Equal Employment Opportunity Commission, or the Washington state human rights commission.

Chapter 132Z-310 WAC GRIEVANCE PROCEDURES—DISABILITY

NEW SECTION

WAC 132Z-310-010 Preamble. Cascadia Community College is covered by section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act prohibiting discrimination on the basis of handicap/disability in education. Applicants for admission, enrolled students, applicants for employment, or employees of Cascadia Community College who believe they have been discriminated against on the basis of handicap/disability may lodge an institutional grievance by following the procedures contained in this chapter.

NEW SECTION

WAC 132Z-310-020 Informal procedure. All employees and students should feel free to discuss perceived discrimination with the individual immediately in charge, such as the first-line supervisor or instructor, to see if the situation can be resolved informally. Employees and students may also consult directly with the district's affirmative action officer or designee without making a formal written complaint. Employees and students are not required to use the informal process and may go directly to the formal procedure.

Any district official receiving a discrimination complaint shall contact the affirmative action officer or designee as soon as reasonably convenient. The district official shall arrange for the complainant to receive a copy of the grievance procedure.

NEW SECTION

WAC 132Z-310-030 Formal procedure. Step one: Employees and students must make a written complaint concerning discriminatory behavior to the affirmative action officer or designee.

(1) Complaints may be held in confidence only to the extent allowed by Washington's public disclosure law, chapter 42.17 RCW. Formal action against the person accused may not be taken on behalf of the complainant unless the complainant consents to be identified to the one accused in connection with the investigation.

(2) Complainants may bring persons of their choice to the initial or subsequent complaint meetings.

(3) The affirmative action officer or designee shall give a copy of these regulations and any applicable board policy to the person making the formal complaint and to the accused.

(4) The result of that consultation and any investigation made may be communicated to the complainant before any further action is taken.

(5) An informal hearing may be substituted for investigation if the complainant and the accused agree. The

affirmative action officer or designee will be responsible for investigating the complaint and discussing the complaint with the accused. The affirmative action officer will make a written recommendation to the president within a reasonable time following the close of the investigation or hearing.

(6) Appropriate corrective measures will be decided by the president of the district upon consultation with the affirmative action officer and the appropriate administrators or supervisors involved. If an accused employee or student disagrees with the determination or appropriateness of the corrective measures, that individual may contest those measures through the appropriate staff grievance procedures, if they are covered by an agreement, or the student disciplinary code.

(7) Information will be entered in the personnel or student file only to the extent that a formal reprimand or other disciplinary action has been taken. If no disciplinary action is taken, the affirmative action officer will keep a record of the investigation accessible to the president, the complainant and the accused for a period of three years and then that record will be destroyed. If a formal complaint is filed with an outside state or federal agency, files will be maintained until the complaint is resolved. When such files are used, written notice will be placed in the file indicating the person using the file and the date used.

NEW SECTION

WAC 132Z-310-040 Other remedies. These procedures, outlined in WAC 132Z-310-010 through 132Z-310-030, are internal district procedures and, as such, serve to resolve complaints within the district's administrative framework. These procedures do not replace an individual's right to timely file a complaint with an external agency such as the Office of Civil Rights, Equal Employment Opportunity Commission, or the Washington state human rights commission.

**Chapter 132Z-325 WAC
STATE ENVIRONMENTAL POLICY ACT RULES**

NEW SECTION

WAC 132Z-325-010 Implementation of State Environmental Policy Act. (1) It shall be the policy of Cascadia Community College that all actions taken by the district shall comply with the provisions of chapter 43.21C RCW (the State Environmental Policy Act), chapters 197-11 and 132-24 WAC.

(2) The president of the district or designee shall be responsible for administering and implementing this policy.

**WSR 96-09-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed April 16, 1996, 1:25 p.m.]**

Original Notice.
Preproposal statement of intent [inquiry] was filed as WSR 96-04-025.

Title of Rule: WAC 388-503-0310 Categorically needy eligible persons.

Purpose: Comply with federal rules.

Statutory Authority for Adoption: RCW 74.08.090, SPA 95-11.

Statute Being Implemented: RCW 74.08.090, SPA 95-11.

Summary: See Explanation of Rule below.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 617 8th S.E., Olympia, WA, (360) 753-7462.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposed amendment ensures a person whose SSI benefits are terminated for noncompliance with drug or alcohol treatment or for exhaustion of thirty-six-month limitation remains eligible for CN medical benefits.

Proposal does not change the following existing rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not regulate or have an economic impact on any small business. This rule impacts only department staff and clients.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on May 21, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by May 7, 1996, TTY (360) 753-0625.

Submit Written Comments to: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504, FAX (360) 664-0118, by May 14, 1996.

Date of Intended Adoption: May 22, 1996.

April 16, 1996
Merry Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3769, filed 8/10/94, effective 9/10/94)

WAC 388-503-0310 Categorically needy eligible persons. The department shall determine eligible for categorically needy medical assistance a client who is:

(1) Receiving or eligible to receive a cash assistance payment under:

(a) Aid to families with dependent children (AFDC); or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving

PROPOSED

a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance.

(2) A person twenty years of age or younger who meets the:

- (a) One-person AFDC financial requirements and is in:
 - (i) Foster care; or
 - (ii) Subsidized adoption; or
 - (iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or
 - (iv) An approved inpatient psychiatric facility.
- (b) Eligibility requirements under chapter 388-509 WAC.

(3) A current client of Title II, Social Security Administration (SSA) benefits who:

- (a) Was a concurrent client of Title II and SSI benefits;
- (b) Is ineligible for SSI benefits and/or state supplementary payments; and
- (c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in subsection (3)(c)(i) of this ~~((sub))~~section by the client's spouse and/or other financially responsible family member living in the same household.

(4) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

(5) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

- (a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and
- (b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;
- (c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;
- (d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;
- (e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;
- (f) Is fifty through fifty-nine years of age; and
- (g) Filed an application for Medicaid coverage before July 1, 1988.

(6) Effective January 1, 1991, any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

- (a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;
- (b) Received SSI/SSP payments in the month before receiving such Title II benefits;
- (c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and
- (d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-

of-living increases provided under Section 215(i) of the act were disregarded.

(7) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

- (a) Has attained eighteen years of age;
- (b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and
- (c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.
- (8) A client who:
 - (a) In August 1972, received:
 - (i) Old age assistance (OAA);
 - (ii) Aid to blind (AB);
 - (iii) Aid to families with dependent children (AFDC); or
 - (iv) Aid to the permanently and totally disabled (APTD); and
 - (b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or
 - (c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.
- (9) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

(11) A child eighteen years of age or younger meeting residence, citizenship, and Social Security number requirements whose countable family income is at or under two hundred percent of the FPL.

(12) In a family unit ineligible for AFDC financial assistance as a result (wholly or in part) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility, if the family unit received AFDC financial assistance in at least three of the six months immediately preceding the month of ineligibility;

(13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed; and

(c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.

(14) Denied AFDC cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is an SSI ~~((categorically))~~-related ~~((and would not be eligible for cash assistance if the))~~ institutionalized person

~~((was not institutionalized,)) and ((the person's))~~ has gross income ~~((does not exceed the))~~ above the cash assistance level but below three hundred percent ~~((SSI benefit cap))~~ of the Federal Benefit Rate.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) A person eligible for and accepting hospice services as described under WAC 388-86-047 and who shall be:

- (a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or
- (b) AFDC categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for AFDC or SSI cash assistance because of deeming of income of the alien's sponsors;

- (20) Not an inmate of a public institution;
- (21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

- (22) A client who:
 - (a) Was entitled to RSDI benefits in August 1972; and
 - (b) Is ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

(23) Suspended from receipt of SSI benefits for non-compliance with drug or alcohol treatment requirements; or

(24) Determined eligible for SSI benefits based on a finding that alcoholism/drug addiction is a contributing factor to the person's disability and such benefits have been exhausted after receipt for thirty-six months.

WSR 96-09-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (General Provisions)

[Filed April 16, 1996, 1:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-061.

Title of Rule: WAC 440-22-005, 440-22-406, and 440-22-408. Certification requirements for chemical dependency treatment service providers. Behavior management and temporary protective holding of high-risk youth in chemical dependency treatment, especially those who present a danger to themselves or others.

Purpose: The Child Welfare Planning Team of the Department of Social and Health Services instructed the Division of Alcohol and Substance Abuse (DASA) to adopt rules to meet the intent of the Becca Bill to protect civil rights of youth while preventing harm to runaway youth. Temporary protective holding would slow down the runaway process and allow for interventions to prevent running away.

Statutory Authority for Adoption: RCW 70.96A.090.

Statute Being Implemented: 1995 Becca Bill: E2SSB 5439.

Summary: Behavior management and temporary protective holding of high-risk youth in chemical dependency treatment, especially those who present a danger to themselves or others.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Division of Alcohol and Substance Abuse, Certification Section, Lacey, Washington, (360) 438-8054.

Name of Proponent: Youth Work Group (see list below) and Department of Social and Health Services, private, public, and governmental.

YOUTH TREATMENT PROVIDERS
 SECURE TREATMENT WORKGROUP

Participants in Telephone Conference August 10, 1995:

Name of Facility	Area	Contact Person	Phone Number
Lakeside-Milam	Seattle	Judi Bixby	800-231-4303
Daybreak	Spokane	Tim Smith	509-747-3088
Deaconess	Spokane	Mike Forness	509-458-7000
Safe Passage	Sedro Wooley	John Borders	206-787-2569
Turnaround	Vancouver	David Loh	360-696-5353
BLAADE/ACE	Seattle	J.C. Ephraim	206-365-3080
Ryther Child Center	Seattle	John Horngren	206-525-5050
St. Peter	Lacey	Sue Green	360-459-8811

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Currently affects only one treatment provider who already is in compliance. Few others may choose to serve these high-risk youth, but must meet life-safety.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 440-22-005, 440-22-406, and 440-22-408. Certification requirements for chemical dependency treatment service providers. Behavior management and temporary protective holding of high-risk youth in chemical dependency treatment, especially those who present a danger to themselves or others. The Child Welfare Planning Team of the Department of Social and Health Services instructed the Division of Alcohol and Substance Abuse (DASA) to adopt rules to meet the intent of the Becca Bill to protect civil rights of youth while preventing harm to runaway youth. Temporary protective holding would slow down the runaway process and allow for interventions to prevent running away.

Proposal Changes the Following Existing Rules: Adds two definitions: "Danger to self or others," and "restraints"; adds new section WAC 440-22-406 on behavior management, including requirement for policies and procedures for techniques used, using least restrictive measures first, when and how restraints may be used, staff training, and documentation in the patient record; and new section WAC 440-22-408 allows for temporary protective holding facility with secure perimeter and locked windows and doors, which require meeting fire codes, with policies and procedures, training, patient release, and documentation requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Use of these rules proposed in WAC 440-22-406 are generally in practice by youth treatment contractors; and use of a protective holding facility is optional and currently in use by only one provider who generally meets these requirements.

PROPOSED

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 under RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on May 21, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by May 7, 1996, TDD (360) 753-0625.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules and Policies Assistance Unit, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118 by May 14, 1996.

Date of Intended Adoption: May 22, 1996.

April 16, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-005 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter:

(1) "Administrator" means the person designated responsible for the operation of the certified treatment service;

(2) "Adult" means a person eighteen years of age or older. "Young adult" means an adult who is not yet twenty-one years of age;

(3) "Alcoholic" means a person who has the disease of alcoholism;

(4) "Alcoholism" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

(5) "Authenticated" means written, permanent verification of an entry in a patient treatment record by means of an original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry;

(6) "Authentication record" means a document which is part of a patient's treatment record, with legible identification of all persons initialing entries in the treatment record, and includes:

(a) Full printed name;

(b) Signature including the first initial and last name; and

(c) Initials and abbreviations indicating professional designation or job title.

(7) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(8) "Branch service site" means a physically separate certified unit where qualified staff provide a certified treatment service and are governed by a parent organization;

(9) "Certified treatment service" means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 440-22 WAC;

(10) "Chemical dependency" means a person's alcoholism or drug addiction or both;

(11) "Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques and:

(a) Led by a chemical dependency counselor (CDC) or a CDC intern under direct CDC supervision;

(b) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and

(c) Directed toward a goal of abstinence for chemically dependent persons.

(12) "Chemical dependency counselor (CDC)" means a person registered, certified, or exempted by the state department of health, and qualified as a CDC as described under WAC 440-22-240. Categories of chemical dependency counselors include:

(a) "Assessment officer" which means a person employed at a certified district or municipal court treatment program who meets WAC 440-22-225 requirements or is grandparented as meeting those requirements;

(b) "Youth chemical dependency counselor" which means a person who meets WAC 440-22-230 requirements.

(13) "Chemical dependency counselor (CDC) intern" means a person who meets the standards for CDC interns described under WAC 440-22-200 and 440-22-220, and is supervised by a CDC in a certified treatment agency, as described under WAC 440-22-210;

(14) "Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor;

(15) "County coordinator" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program;

(16) "Criminal background check" means a search by the Washington state patrol for any record of convictions or civil adjudication related to crimes against children or other persons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol;

(17) "Danger to self or others," for purposes of WAC 440-22-406 and 440-22-408, means a youth residing in a chemical dependency treatment agency who creates a risk of serious harm to the health, safety, or welfare of self or others. Behaviors considered dangerous include:

(a) Suicide threat or attempt;

(b) Assault or threat of assault; or

(c) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

(18) "Department" means the Washington state department of social and health services;

~~((18))~~ (19) "Detoxification" or "detox" means care and treatment of a person while the person recovers from the

transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs;

((19)) (20) "Disability, person with a" means a person who:

- (a) Has a physical or mental impairment that substantially limits one or more major life activities of the person;
- (b) Has a record of such an impairment; or
- (c) Is regarded as having such an impairment.

((20)) (21) "Discrete treatment service" means a chemical dependency treatment service that:

(a) Provides distinct chemical dependency supervision and treatment separate from other services provided within the facility;

(b) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and

(c) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency services.

((21)) (22) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or

(b) Sexual assault of one family or household member by another.

((22)) (23) "Drug addiction" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

((23)) (24) "First Steps" means a program available across the state for low-income pregnant women and their infants. First Steps provides maternal and child health care and support services;

((24)) (25) "Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service;

((25)) (26) "HIV/AIDS brief risk intervention (BRI)" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission;

((26)) (27) "HIV/AIDS education" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease;

((27)) (28) "Medical practitioner" means a physician, certified nurse practitioner, or certified physician's assistant. Nurse practitioners and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services;

((28)) (29) "Misuse" means use of alcohol or other drugs by a person in:

- (a) Violation of any law; or
- (b) Breach of agency policies relating to the drug-free work place.

((29)) (30) "Off-site treatment" means provision of treatment by a certified provider at a location where treatment is not the primary purpose of the site;

((30)) (31) "Opiate dependency treatment agency" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate dependency. The agency is:

(a) Approved by the Federal Food and Drug Administration;

(b) Registered with the Federal Drug Enforcement Administration;

(c) Licensed by the county in which it operates; and

(d) Certified as an "opiate dependency treatment agency" by the department.

((31)) (32) "Patient" is a person receiving chemical dependency treatment services from a certified program;

((32)) (33) "Patient contact" means counselor time spent with a client or patient to do assessments, individual or group counseling, or education;

((33)) (34) "Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality;

((34)) (35) "Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery;

((35)) (36) "Restraint," for purposes of WAC 440-22-406 and 440-22-408, means the use of methods, by a trained staff person, to prevent or limit free body movement in the event of out-of-control behavior. Restraint includes:

(a) Containment or seclusion in an unlocked quiet room;

(b) Physical restraint, meaning a person physically holds or restricts another person in a safe manner for a short time in an immediate crisis; or

(c) Use of a safe and humane apparatus which the person cannot release by him or herself.

(37) "Service provider" or "provider" means a legally operated entity certified by the department to provide chemical dependency treatment services. The components of a service provider are:

(a) Legal entity/owner;

(b) Facility; and

(c) Staff and services.

((36)) (38) "Sexual abuse" means sexual assault, incest, or sexual exploitation;

((37)) (39) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct when:

(a) Submission to such conduct is made explicitly or implicitly a term or condition of employment or treatment;

(b) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

((38)) (40) "Substance abuse" means a recurring pattern of alcohol or other drug use which substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social;

((39)) (41) "Summary suspension" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department;

((40)) (42) "Supervision" means:

(a) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, intern, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

(b) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

((41)) (43) "Suspend" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement;

((42)) (44) "Treatment services" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons;

((43)) (45) "Urinalysis" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health:

(a) "Negative urine" is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

(b) "Positive urine" is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

((44)) (46) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for oneself.

((45)) (47) "Youth" means a person seventeen years of age or younger.

NEW SECTION

WAC 440-22-406 Behavior management. (1) The administrator shall ensure policies and procedures are written and implemented which detail least to increasingly restrictive practices to stabilize and protect youth who are a danger to self or others, including:

(a) Obtaining signed behavioral contracts, at admission and updated as necessary;

(b) Acknowledging positive behavior and fostering dignity and self respect;

(c) Supporting self-control and the rights of others;

(d) Increased individual counseling;

(e) Increased staff monitoring;

(f) Verbal de-escalation;

(g) Use of unlocked room for containment or seclusion;

(h) Use of restraints; and

(i) Emergency procedures, including notification of law enforcement when appropriate.

(2) When less restrictive measures are not sufficient to de-escalate a behavioral crisis, clinical staff may:

(a) Contain or seclude a youth in a quiet unlocked room which has a window for observation and:

(i) The clinical supervisor shall be notified immediately of the staff person's use of a quiet room for a youth, and shall determine its appropriateness;

(ii) A chemical dependency counselor shall consult with the youth immediately and at least every ten minutes, for counseling and assistance and to maintain direct communication; and

(iii) The clinical supervisor or designated alternate shall evaluate the youth and determine the need for mental health consultation.

(b) Restrain a youth and:

(i) Obtain authorization for use of the restraint from a clinical supervisor or mental health professional, within the hour; and

(ii) Staff shall be able to observe the youth at all times.

(3) The provider shall ensure staff are trained in safe and therapeutic techniques for dealing with a youth's behavioral and emotional crises, including:

(a) Verbal de-escalation;

(b) Crisis intervention;

(c) Anger management;

(d) Conflict management and problem solving skills;

(e) Management of assaultive behavior;

(f) Proper use of restraint; and

(g) Emergency procedures.

(4) Involved staff shall document the circumstances surrounding each incident requiring intervention, in the youth's record and include:

(a) The precipitating circumstances;

(b) Measures taken to resolve the incident;

(c) Final resolution; and

(d) Notification of appropriate others.

NEW SECTION

WAC 440-22-408 Temporary protective holding facility. (1) A provider shall have policies and procedures for holding a youth on a temporary basis when the person presents a danger to self or others. To slow down or prevent a youth's unauthorized exit from the residential treatment site, the provider may have:

(a) An unlocked room for containment or seclusion;

(b) A secure perimeter, such as a nonscalable fence with locked gates; and

(c) Locked windows and exterior doors.

(2) The provider using holding mechanisms in subsection (1) of this section shall meet requirements of the 1994 uniform building code or its successor, which include fire safety and special egress control devices, such as alarms and automatic releases.

(3) Clinical staff shall discharge or transfer a youth from temporary protective holding after interventions listed under WAC 440-22-406 and this section:

(a) Have been attempted without success and the person still wants to leave;

(b) The person has been informed of the consequences and return options; and

(c) The parents, police, and appropriate others have been notified.

(4) Involved staff shall document each incident, including those requiring discharge or transfer of a patient, in the patient's record, including all follow-up actions taken.

WSR 96-09-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed April 16, 1996, 1:29 p.m.]

Original Notice.

Preproposal statement of intent [inquiry] was filed as WSR 96-04-055.

Title of Rule: WAC 388-513-1360 Resource exemptions.

Purpose: Chapter 48.85 RCW and State Plan Amendment 95-24 compliance.

Statutory Authority for Adoption: RCW 74.08.090, 48.85.020.

Statute Being Implemented: RCW 74.08.090, 48.85.020.

Summary: See Explanation of Rule below.

Reasons Supporting Proposal: To comply with chapter 48.85 RCW and SPA 95-24.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 617 8th S.E., Olympia, WA, (360) 753-7462.

Name of Proponent: Office of the Insurance Commissioner, 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: Provide rules allowing exemption of resources equal to the amount paid for nursing facility or home- and community-based services by a long-term care insurance policy approved by Office of the Insurance Commissioner under the long-term care partnership program.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not regulate or have an economic impact on any small business. This rule impacts only department staff and clients. OIC is responsible for a small business economic impact statement, if any, regarding the insurance industry. Such policies are not due to be offered for sale prior to January 1, 1997.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on May 21, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by May 7, 1996, TTY (360) 753-0625.

Submit Written Comments to: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504, FAX (360) 664-0118, by May 14, 1996.

Date of Intended Adoption: May 22, 1996.

April 16, 1996
Merry Kogut, Supervisor
Rules and Policies Assistance Unit

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

WAC 388-513-1360 Resource exemptions. (1) In determining eligibility, the department shall exempt resources specified under WAC 388-511-1160.

(2) Effective July 1, 1996, the department shall exempt resources:

(a) For an aged, blind, or disabled person who has purchased a long-term care insurance policy approved by the Washington insurance commissioner under the Washington long-term care partnership program; and

(b) In an amount equal to the extent such policy has paid for licensed nursing facility and/or home- and community-based services covered under Medicaid.

(3) The department shall consider exempt resources described under subsection (2) of this section subject to estate recovery rules when the client has retained such resources.

(4) The department shall apply WAC 388-513-1365 for transfers of resources with the exception of resources exempted under subsection (2) of this section.

WSR 96-09-080

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed April 16, 1996, 3:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-06-060.

Title of Rule: Chapter 204-56 WAC, Procedures for measuring motor vehicle sound levels.

Purpose: To bring WAC into compliance with other states for measuring sound levels in new motor vehicles.

Statutory Authority for Adoption: RCW 46.37.005.

Summary: Amends WAC 204-56-085(2) to add reference to Society of Automotive Engineers Standard J1470, February 1987 for testing sound levels.

Reasons Supporting Proposal: The American Automobile Manufacturers requested that Washington state amend its code to comply with other states regarding testing sound levels in new motor vehicles.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lt. S. Englehorn, 4242 Martin Way, Olympia, (360) 412-8930.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment will allow the use of both standards of the Society of Automotive Engineers (SAE) to be used for measuring sound levels in new motor vehicles for the purpose of enforcing established limits.

Proposal Changes the Following Existing Rules: Amends WAC 204-56-085(2) to add reference to SAE Standard J1470, February 87.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This amendment will have no small business economic impact.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The state patrol discussed this amendment with the Department of Ecology. That agency had no objections and agreed it would have no impact on small businesses.

Hearing Location: Washington State Patrol Vehicle Identification Section, 4242 Martin Way, Olympia, WA, on May 21, 1996, at 9 a.m.

Assistance for Persons with Disabilities: Contact Ms. Jan Baca by May 10, 1996, (360) 753-0626.

Submit Written Comments to: Lt. S. Englehorn, FAX (360) 493-9090, by May 14, 1996.

Date of Intended Adoption: June 20, 1996.

April 15, 1996

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending Order 82-05-02, filed 5/12/82)

WAC 204-56-085 Procedures for measuring new motor vehicle sound levels. (1) Scope. This section specifies the procedures to be used for measuring the sound levels of new motor vehicles for the purpose of enforcing the new motor vehicle limits established in WAC 173-62-030(4), Table III.

(2) Motor vehicles with GVWR of 10,000 pounds or less. New motor vehicles with a GVWR of 10,000 pounds or less which have been manufactured after January 1, 1975, shall be measured according to current Society of Automotive Engineers (SAE) Standard J986 (~~(NOV-81)~~) and/or current SAE Standard J1470.

(3) Motor vehicles with GVWR over 10,000 pounds. New motor vehicles with a GVWR greater than 10,000 pounds which have been manufactured after January 1, 1975, shall be measured according to the test procedures in Section 205.54 of Title 40, chapter I of the Code of Federal Regulations for new medium and heavy trucks.

(4) Motorcycles. New motorcycles manufactured after January 1, 1976 shall be measured according to SAE Recommended Practice J331a.

(5) Buses over 10,000 pounds GVWR. New buses with a GVWR greater than 10,000 pounds which have been manufactured after January 1, 1980 shall be measured according to Society of Automotive Engineers (SAE) Standard J366b. Buses with automatic transmissions that cannot be manually held in gear should be tested according to a modified SAE J366 test procedure as follows:

(a) Vehicles equipped with automatic transmissions which cannot be manually held in gear shall be operated at full throttle from a standing start so that the first transmission shift occurs with the vehicle reference point in the end zone.

(b) Place the transmission gear selector in the position normally used for typical driving.

(c) A starting point along the test path at which the vehicle shall begin the acceleration test shall be determined by the following procedure:

(i) The vehicle reference point, as specified in SAE J366b, Section 3.7, shall be placed at the midpoint ($\pm 0.3m$, $\pm 1ft.$) of the end zone with the front end of the vehicle

facing back along the test path in the opposite direction of travel that is used for the sound measurement tests.

(ii) The vehicle shall than be accelerated as rapidly as possible by establishing wide open throttle, until the first transmission shift point is reached.

(iii) The location along the test path at which the reference point of the vehicle is passing when the first transmission shift point occurs during the wide open throttle acceleration shall be the designated stationary starting point.

(iv) The vehicle's direction of travel shall then be reversed for sound testing.

(d) For the acceleration test, accelerate the vehicle from a standing position with the reference point of the vehicle at the selected stationary point, obtained by using subsection (5)(c) of this section, as rapidly as possible by establishing wide open throttle. The acceleration shall continue until the entire vehicle has vacated the end zone.

(e) Wheel slip which affects maximum sound level must be avoided. The modified procedure uses a standard SAE J366 test site.

(6) Requests for copies of ANSI documents should be addressed to: Acoustical Society of America, American Institute of Physics, 335 East 45th Street, New York, N.Y., 10017. Requests for copies of SAE documents should be addressed to: Society of Automotive Engineers, Attn: Dept. 001, 400 Commonwealth Drive, Warrendale, PA. 15096.

WSR 96-09-081
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 16, 1996, 3:40 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Hospice licensing fees, WAC 246-331-990.

Purpose: To adjust fees to cover actual program costs.

Statutory Authority for Adoption: RCW 43.70.110 and

43.70.250.

Statute Being Implemented: RCW 43.70.110 and

43.70.250.

Summary: The department is adjusting fees to cover actual program costs. Fees are based upon the cost of regulatory activity which includes salaries and benefits, goods and services such as rent, telephone and mailing, travel and equipment, attorney general support, and indirect costs.

Name of Agency Personnel Responsible for Drafting: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6661; Implementation and Enforcement: Kathy Stout, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6652.

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: These amendments will increase licensing fees 5.1% to cover actual costs of operating the regulatory program for hospice facilities.

Proposal Changes the Following Existing Rules: Proposed changes will increase licensing fees by 5.1%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared an economic analysis identifying the necessity of the 5.1% fee increase.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.-328 (5)(v)(vi).

Hearing Location: Department of Health, Facilities and Services Licensing, Target Plaza, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98502, on May 21, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 10, 1996, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, by May 14, 1996.

Date of Intended Adoption: May 29, 1996.

April 16, 1996
Mimi Fields, M.D.
for Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-331-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of three hundred (~~seventy-eight~~) ninety-seven dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, two hundred ten dollars;

(B) Sixteen through fifty FTEs, (~~four~~) five hundred (~~eighty-two~~) six dollars; or

(C) Fifty-one or more FTEs, (~~nine hundred ninety-seven~~) one thousand forty-eight dollars;

(b) A fee of one-half the fees specified in (a) of this subsection for an initial twelve-month license for:

(i) New firms;

(ii) Businesses not currently licensed to provide hospice care in Washington state; or

(iii) Currently licensed businesses which have had statement of charges filed against them; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or home care license.

(3) The department may charge and collect from a licensee a fee of one hundred (~~eighty-nine~~) ninety-nine dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site (~~inspection~~) survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

WSR 96-09-082

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 16, 1996, 3:42 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Home health fees, WAC 246-327-990.

Purpose: To adjust fees to cover actual program costs.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Statute Being Implemented: RCW 43.70.110 and 43.70.250.

Summary: The department is adjusting fees to cover actual program costs. Fees are based upon the cost of regulatory activity which includes salaries and benefits, goods and services such as rent, telephone and mailing, travel and equipment, attorney general support, and indirect costs.

Name of Agency Personnel Responsible for Drafting: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6661; Implementation and Enforcement: Kathy Stout, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6652.

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: These amendments will increase licensing fees 5.1% to cover actual costs of operating the regulatory program for home health facilities.

Proposal Changes the Following Existing Rules: Proposed changes will increase licensing fees by 5.1%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared an economic analysis identifying the necessity of the 5.1% fee increase.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.-328 (5)(b)(vi).

Hearing Location: Department of Health, Facilities and Services Licensing, Target Plaza, 2725 Harrison Avenue

N.W., Suite 500, Olympia, WA 98502, on May 21, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 10, 1996, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, by May 14, 1996.

Date of Intended Adoption: May 29, 1996.

April 16, 1996
Mimi L. Fields, M.D.
for Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-327-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of three hundred (~~(seventy-eight))~~ ninety-seven dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, (~~(seven))~~ eight hundred (~~(eighty-seven))~~ twenty-seven dollars;

(B) Sixteen through fifty FTEs, nine hundred (~~(forty-seven))~~ ninety-five dollars; or

(C) Fifty-one or more FTEs, one thousand (~~(two))~~ three hundred (~~(ninety-two))~~ fifty-eight dollars;

(b) A fee of one-half the fees specified in (a) of this subsection for an initial twelve-month license for:

(i) New firms;

(ii) Businesses not currently licensed to provide home health care in Washington state; or

(iii) Currently licensed businesses which have had statement of charges filed against them; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional hospice and/or home care license.

(3) The department may charge and collect from a licensee a fee of one hundred (~~(eighty-nine))~~ ninety-nine dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

WSR 96-09-083
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed April 16, 1996, 3:45 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Home care licensing fees, WAC 246-336-990.

Purpose: To adjust fees to cover actual program costs. Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Statute Being Implemented: RCW 43.70.110 and 43.70.250.

Summary: The department is adjusting fees to cover actual program costs. Fees are based upon the cost of regulatory activity which includes salaries and benefits, goods and services such as rent, telephone and mailing, travel and equipment, attorney general support, and indirect costs.

Name of Agency Personnel Responsible for Drafting: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6661; Implementation and Enforcement: Kathy Stout, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6652.

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: These amendments will increase licensing fees 5.1% to cover actual costs of operating the regulatory program for home care facilities.

Proposal Changes the Following Existing Rules: Proposed changes will increase licensing fees by 5.1%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared an economic analysis identifying the necessity of the 5.1% fee increase.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.-328 (5)(b)(vi).

Hearing Location: Department of Health, Facilities and Services Licensing, Target Plaza, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98502, on May 21, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 10, 1996, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, by may 14, 1996.

Date of Intended Adoption: May 29, 1996.

April 16, 1996
Mimi L. Fields, M.D.
for Bruce Miyahara
Secretary

PROPOSED

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-336-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency (~~employees~~) personnel or contractors, as follows:

(i) A base fee of two hundred (~~(fifty-two)~~) sixty-four dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred (~~(thirty-three)~~) forty dollars;

(B) Sixteen through fifty FTEs, one hundred (~~(sixty-one)~~) sixty-nine dollars; or

(C) Fifty-one or more FTEs, two hundred (~~(thirty-one)~~) forty-two dollars;

(b) An initial twelve-month license fee for new firms, businesses not currently licensed to provide home care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of one hundred (~~(eighty-nine)~~) ninety-nine dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred five dollars;

(B) Sixteen through fifty FTEs, one hundred (~~(twenty-one)~~) twenty-seven dollars;

(C) Fifty-one or more FTEs, one hundred (~~(seventy-six)~~) eighty-five dollars; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or hospice license.

(3) The department may charge and collect from a licensee a fee of one hundred eighty-nine dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

Statutory Authority for Adoption: RCW 18.20.050, 43.70.110, and 43.70.250.

Statute Being Implemented: RCW 43.70.110 and 43.70.250.

Summary: The department is adjusting fees to cover actual program costs. An additional FTE was allotted for the 95-97 biennium to assist in the increase in program backlog due to additional facilities and number of complaint investigations. Fees are based upon the cost of regulatory activity which includes salaries and benefits, goods and services such as rent, telephone and mailing, travel and equipment, and indirect costs.

Name of Agency Personnel Responsible for Drafting: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6661; Implementation and Enforcement: Kathy Stout, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6652.

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: These amendments will align fees to cover actual costs of operating the regulatory program for boarding homes.

Proposal Changes the Following Existing Rules: Proposed changes will increase boarding home licensing fees from \$35.75 per bed to \$37.35.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared an economic analysis identifying the necessity of the 4.3% fee increase.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

Hearing Location: Department of Health, Facilities and Services Licensing, Target Plaza, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98502, on May 21, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by May 10, 1996, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, by May 14, 1996.

Date of Intended Adoption: May 29, 1996.

April 16, 1996

Mimi L. Fields, M.D.

for Bruce Miyahara

Secretary

WSR 96-09-084
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 16, 1996, 3:48 p.m.]

Original Notice.

Title of Rule: Boarding home fee rules, WAC 246-316-990.

Purpose: To adjust fees to cover actual program costs.

AMENDATORY SECTION (Amending WSR 95-12-097, filed 6/7/95, effective 7/8/95)

WAC 246-316-990 Fees. The licensee or applicant shall:

(1) Submit an annual license fee of (~~(thirty-five)~~) thirty-seven dollars and (~~(seventy-five)~~) thirty-five cents per bed of

the licensed resident bed capacity for initial and renewed licenses;

(2) Submit an additional one hundred fifty dollars when billed by the department for:

(a) A third on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

(b) A complete on-site survey resulting from a substantiated complaint; and

(3) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark.

WSR 96-09-087

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 16, 1996, 4:19 p.m.]

Continuance of WSR 96-06-056.

Preproposal statement of inquiry was filed as WSR 96-02-031.

Title of Rule: WAC 458-20-12401 Special stadium sales and use tax.

Purpose: This rule is being proposed to implement the special stadium sales and use tax on food and beverage sales by restaurants, taverns, and bars authorized by chapter 1, Laws of 1995 3rd sp. sess. (RCW 82.14.360) and imposed by the King County Council (Ordinance #12000) effective January 1, 1996.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.14.360, King County Ordinance #12000.

Summary: This rule implements the special stadium sales and use tax on food and beverage sales by restaurants, taverns, and bars, that took effect January 1, 1996. The rule provides definitions of terms used in the statute and provides examples of when the tax must be collected.

Reasons Supporting Proposal: This rule provides information to those taxpayers who are required to collect and remit the tax.

Name of Agency Personnel Responsible for Drafting and Implementation: Claire Hesselholt, Policy Counsel, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, Assistant Director, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the special stadium sales and use tax on sales of food and beverages by restaurants, taverns, and bars, imposed by the King County Council effective January 1, 1996. The rule provides definitions of terms used in the statute and examples of when the tax is due and must be collected. The definitions used in the rule are consistent with definitions of the same terms contained in other statutes. (See chapters 66.04 and 66.24 RCW). This rule will explain to taxpayers when they must collect the additional sales or use tax and remit the tax to the state.

A previous proposed rule-making hearing was held on April 10, 1996. The department has filed this continuance and will hold another rule hearing on May 30, 1996, because the mailing for that hearing was not sent to all subscribers of the rules maintenance list.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose a burden on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This is an interpretative rule.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA 98501, on May 30, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Sandra Yuen by May 10, 1996, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: Claire Hesselholt, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by June 1, 1996.

Date of Intended Adoption: June 20, 1996.

April 16, 1996

Russell W. Brubaker

Assistant Director

NEW SECTION

WAC 458-20-12401 Special stadium sales and use tax. (1) **Introduction.** RCW 82.14.360 was amended in the third special session in 1995. (See chapter 1, 1995 3rd sp.s.) Effective January 1, 1996, a special stadium sales and use tax applies to sales of food and beverages by restaurants, taverns, and bars in counties with a population of one million or more. Currently, the special stadium tax applies only in King County. The tax applies only to those food and beverage sales that are already subject to the retail sales tax.

Grocery stores, mini-markets, and convenience stores were specifically excluded from the definition of a restaurant and are not required to collect the tax. However, a restaurant located within a grocery store, mini-market, or convenience store is subject to this tax if the restaurant is owned or operated by a different legal entity from the store or market. This section explains when the tax will apply.

(2) **Definitions.** The following definitions apply to this section.

(a) "Restaurant" means any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption, but excluding grocery stores, mini-markets, and convenience stores. Restaurant includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concessions, delicatessens, and cafeterias. It also includes space and accommodations where food and beverages are sold to the public for immediate consumption that are located within hotels, motels, lodges, boarding houses, bed-and-breakfast facilities, hospitals, office buildings, and schools, colleges, or universities, if a separate charge is made for such food or beverages. Mobile sales units that sell food or beverages for immediate consumption within a place, the entrance to which is subject to an admission charge, are "restaurants" for purposes of this tax. So too are public and private carriers, such as trains and

vessels, that sell food or beverages for immediate consumption on trips that both originate and terminate within the county imposing the special stadium tax if a separate charge for the food and/or beverages is made. A restaurant is open to the public for purposes of this section if members of the public can be served as guests. "Restaurant" does not include businesses making sales through vending machines or through mobile sales units such as catering trucks or sidewalk vendors of food or beverage items.

(b) "Tavern" has the same meaning here as in RCW 66.04.010 and means any establishment with special space and accommodation for the sale of beer by the glass and for consumption on the premises.

(c) "Bar" means any establishment selling liquor by the glass or other open container and includes, but is not limited to, establishments that have been issued a class H license by the liquor control board.

(d) "Grocery stores, mini-markets, and convenience stores," have their ordinary and common meaning.

(3) **Tax application.** This special stadium sales and use tax currently applies only to food and beverages sold by restaurants, bars, and taverns in King County. The tax is in addition to any other sales or use tax that applies to these sales. This special tax only applies if the regular sales or use tax imposed by chapters 82.08 or 82.12 RCW applies.

(a) The tax applies to the total charge made by the restaurant, tavern, or bar, for food and beverages. If a mandatory gratuity is included in the charge that, too, is subject to the tax.

(b) Catering provided by a restaurant, tavern or bar is also subject to the tax. However, when catering is done by a business that does not meet the definition of restaurant in subsection (2) of this section, has no facilities for preparing food, and all food is prepared at the customer's location, the charge is not subject to the tax.

(c) In the case of catering subject to the tax, if a separate charge is made for linens, glassware, tables, tents, or other items of tangible personal property that are not required for the catering, those separate charges are not subject to the tax. However, separately stated charges for items that are required as a part of the catering service, such as waitpersons or mandatory gratuities, are subject to the tax.

(4) **Examples.** The following examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances. For these examples, assume the transactions occur in King County.

(a) XYZ Bakery operates a coffee shop where customers may purchase baked goods and coffee for consumption on the premises or may purchase bakery products for consumption elsewhere. The sales of bakery goods and beverages for consumption on the premises are subject to the special stadium tax. The special stadium tax does not apply to the bakery goods sold "to go" because under the provisions of RCW 82.08.0293 and WAC 458-20-244(6) these bakery goods are not subject to the state retail sales tax. Since the state retail sales tax does not apply to these sales, neither does the special stadium sales tax.

(b) XYZ operates a "fast food" business. Customers may consume the food and beverages on the premises or may take the food "to go" for consumption elsewhere. All sales of food and beverages by this business are subject to

the special stadium tax, including the food and beverages sold "to go."

(c) XYZ operates carts that may be set up on a sidewalk or within parks from which customers may purchase hot dogs and beverages. The cart includes heating facilities for preparation of hot dogs at the cart site. No seating is provided by the business. The site location is not owned or leased by the business. These sales are not subject to the special stadium sales tax because the business does not have a designated space for the preparation of the food it sells. This business does not fit the definition of "restaurant." However, if XYZ operates a mobile food service unit selling food or beverages for immediate consumption at fixed locations within the grounds of a stadium, arena, fairgrounds, or other place, admission to which is subject to an admission charge, then the special stadium tax applies.

(d) XYZ operates a combination gas station and convenience store. The convenience store sells some groceries and also some prepared foods such as hot dogs and hamburgers. Customers may also purchase soft drinks or coffee by the cup. None of these sales are subject to the special stadium sales tax because of the specific language in the statute exempting convenience stores from the tax.

(e) XYZ operates a business that sells prepared pizza. The business prepares and bakes the pizza at its premises. The business has no seating. Customers may order the pizzas by either entering the seller's place of business or by telephone. Customers may either take delivery at the seller's site or the business will deliver the pizza to the customer's residence or other site. These sales are subject to the special stadium sales tax because the business does have a designated site and facilities for the preparation of food for sale for immediate consumption, irrespective that no seating is available. The regular retail sales tax applies to these sales since these sales are not exempt food products under RCW 82.08.0293 (2)(c).

(f) XYZ has the exclusive concession rights to prepare and sell hot dogs within a sports facility. Customers place their orders and take delivery of the prepared food and beverages at the seller's site in the sports facility. XYZ provides no seating that it controls. Customers generally take the food and beverage to their seats and consume the items while watching the sports event. XYZ will also prepare hot dogs and soft drinks at its food bar and use its employees or agents to sell these products to customers in the stands while the sports event is in progress. All of the sales of food and beverages by XYZ are subject to the special tax. XYZ's business operation meets the definition of "restaurant." XYZ has set aside space that it controls for the purpose of preparing food and beverages for immediate consumption for sale to the public.

(g) DEF operates a cafe within ABC's grocery store, for the sale of food or beverages for immediate consumption. ABC is a separate entity from DEF, and it leases the space for the cafe to DEF. Sales of food and beverages by ABC are exempt from the special stadium tax, but sales from the cafe by DEF are subject to that tax.

WSR 96-09-088
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed April 17, 1996, 9:59 a.m.]

Continuance of WSR 96-08-082.

Title of Rule: Repealing WAC 356-05-171 Family and medical leave; and amending WAC 356-14-260 Compensatory time—Liquidation, 356-15-030 Overtime provisions and compensation, 356-18-060 Paid sick leave—Use, 356-18-080 Leave—Worker's compensation, 356-18-110 Vacation leave—Allowance, 356-18-140 Leave without pay, 356-18-145 Leave without pay—Serious health condition, and 356-18-150 Leave—Newborn, adoptive, or foster child care—Provision.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on June 13, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by June 6, 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 June 10, 1996.

Date of Intended Adoption: June 13, 1996.

April 17, 1996
 Dennis Karras
 Secretary

WSR 96-09-089
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed April 17, 1996, 10:02 a.m.]

Continuance of WSR 96-08-081.

Title of Rule: Amending WAC 251-22-116 Family and medical leave, 251-22-167 Disability leave, 251-22-195 Parental leave and 251-22-200 Leave of absence without pay; and repealing WAC 251-22-197 Family medical leave—Serious health condition.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on June 13, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by June 6, 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 June 10, 1996.

Date of Intended Adoption: June 13, 1996.

April 17, 1996
 Dennis Karras
 Secretary

WSR 96-09-091
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed April 17, 1996, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-02-038.

Title of Rule: Continuing the seed assessment program.

Purpose: To continue the seed assessment program which helps fund the seed branch and their seed quality control activities.

Other Identifying Information: Make changes to WAC 16-304-110 and 16-304-130.

Statutory Authority for Adoption: RCW 15.49.370.

Statute Being Implemented: Chapter 15.49 RCW.

Summary: The proposal extends the seed assessment program through June 30, 1998, provides for a program review during the fourth quarter of 1997, and simplifies the language describing when assessments become payable.

Reasons Supporting Proposal: The industry has requested the continuation of the assessment program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, Yakima, Washington, (509) 575-2750.

Name of Proponent: Seed Branch Advisory Committee, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In accordance with RCW 15.49.310, the Washington State Department of Agriculture received a request from industry to continue the seed assessment program which provides funds for the seed quality control activities within the seed branch of the department. It extends the assessment program to June 30, 1998. It also provides for an assessment program review period during the fourth quarter of 1997 to allow time to prepare a proposal to renew the program to a future date should the industry request such action. The proposal also simplifies the language describing the period during which assessments become payable. The effect of the rule is to continue the assessment program at the current level.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal merely continues an existing program in response to an industry request. It does not impose new fees.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Agricultural Service Center, 2015 South First Street, Yakima, WA 98903, on May 21, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 15, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Program Manager, 2015 South First Street, Yakima, WA 98903, FAX (509) 454-4395, by May 21, 1996.

Date of Intended Adoption: May 28, 1996.

April 16, 1996
 Julie C. Sandberg
 Assistant Director

PROPOSED

AMENDATORY SECTION (Amending Order 5045, filed 5/27/94, effective 6/27/94)**WAC 16-304-110 Annual seed inspection charge.**

Each person required to obtain a seed labeling permit, pursuant to RCW 15.49.400, of the Washington State Seed Act, shall also, pursuant to RCW 15.49.310 and 15.49.370, pay a general seed inspection charge annually to the department in the amount of ten cents per one hundred dollars gross annual dollar sales in excess of ten thousand dollars of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year: *Provided*, That no assessment shall be collected on (1) seed for which the assessment has been previously collected, except when such seed has been relabeled; (2) agricultural or vegetable seed distributed out of state; (3) seed distributed in containers of four ounces or less; (4) stock seed; and (5) seed distributed by governmental agencies, such as but not limited to the United States Department of Agriculture national foundation seed project: *Provided further*, That erroneous and overpayments shall be refunded on request. Requests for refund shall be filed by June 30 of the year following the due date. Agricultural and/or vegetable seeds distributed under bailment contract shall be valued at the producer-conditioner agreement rate in lieu of sale.

~~((The assessment fees for the period beginning July 1, 1993, through June 30, 1994, shall be payable by February 1, 1995.))~~ The assessment fees for the fiscal period beginning July 1, ((1994)) 1996, through June 30, ((1995)) 1997, shall be payable by February 1, ((1996)) 1998. Assessment fees for subsequent like fiscal periods shall become payable on February 1 of the following calendar year.

The assessment may accompany the annual application for the seed labeling permit. A penalty of ten percent of the assessment fee or minimum of ten dollars, whichever is greater, shall be added to all assessments not paid by February 1. These funds shall only be used for seed control activities. The annual seed labeling permit may not be issued until all assessments and penalties have been satisfied.

AMENDATORY SECTION (Amending Order 5045, filed 5/27/94, effective 6/27/94)**WAC 16-304-130 Seed inspection assessment—**

Effective dates. This rule is effective through June 30, ~~((1996)) 1998. Between ((January)) October 1, ((1996)) 1997, and ((March)) January 1, ((1996)) 1998, the assessment program shall be reviewed by the seed branch advisory committee, who will recommend whether to continue the seed assessment program. Such recommendations shall be considered at a public hearing under the authority of chapter 42.30 RCW, the Open Public Meetings Act, and chapter 34.05 RCW, the Administrative Procedure Act. The advisory committee shall also recommend the objectives of the seed quality control activities and shall review expenditures of assessment funds to verify such funds are being used only for seed quality control activities.~~

WSR 96-09-093**WITHDRAWAL OF PROPOSED RULES
SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY**

[Filed April 17, 1996, 11:03 a.m.]

The Southwest Air Pollution Control Authority (SWAPCA) hereby requests that the proposed rule SWAPCA 493 Volatile Organic Emissions from Petroleum Contaminated Soil as submitted on May 4, 1993, (CR-102) WSR 93-10-088 be withdrawn. There are no current plans to proceed with finalizing this rule at this time. This request is made in accordance with WAC 1-21-060. We understand that SWAPCA is not subject to RCW 34.05.335 in regards to the one hundred eighty day time limit for adoption of the rule as provided at RCW 70.94.141.

Robert D. Elliott
Executive Director

WSR 96-09-097**PROPOSED RULES****HORSE RACING COMMISSION**

[Filed April 17, 1996, 11:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-06-086.

Title of Rule: Chapter 260-24 WAC, Association officials and employees, rules dealing [with] employees at the race track.

Purpose: Repeal existing rules, WAC 260-24-010 through 260-24-480, and replace entire chapter with new sections, WAC 260-24-500 through 260-24-690, to update duties and job descriptions to bring into conformance with national model rules.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Changes will update and bring into conformance with nationally accepted model 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: These new sections will bring into conformance with the nationally accepted model rules. Because of new technology and language job descriptions will be updated.

Proposal Changes the Following Existing Rules: Repealing entire existing chapter 260-24 WAC. Replace with updated new sections dealing with association officials and employees employed at the race track.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes will not affect more than twenty percent or less than ten percent of

PROPOSED

the populations. 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 May 21, 1996, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by May 20, 1996.

Date of Intended Adoption: May 21, 1996.

April 17, 1996

Bruce Batson

Executive Secretary

REPEALER

The following sections of the Washington Administrative Code are repealed.

- 260-24-010 Officials enumerated.
- 260-24-020 Officials—Duties—Qualifications.
- 260-24-030 Submittal of roster to commission—Approval—Substitutions.
- 260-24-040 Disqualification for acting at unrecognized meeting.
- 260-24-050 Trafficking in horses, contracts, insurance, prohibited.
- 260-24-060 Wagering prohibited.
- 260-24-070 Duty to report violations of rules.
- 260-24-080 Clerk of the scales.
- 260-24-090 Handicapper.
- 260-24-100 Mutuel manager.
- 260-24-110 Paddock judge.
- 260-24-120 Patrol judges.
- 260-24-130 Placing judges.
- 260-24-140 Racing secretary—General duties.
- 260-24-150 Racing secretary—Official program for each racing day.
- 260-24-160 Racing secretary—To keep record of all races.
- 260-24-170 Racing secretary—Duties with regard to stabling.
- 260-24-180 Racing secretary—List of entries—Posting—Available to newspapers.
- 260-24-190 Starter—Duties at start of race.
- 260-24-200 Starter—Appointment of assistants—Misconduct toward jockeys.
- 260-24-210 Starter—Schooling of horses.
- 260-24-220 Starter—To approve entries of two year olds.
- 260-24-230 Starter—May fine and suspend jockeys.
- 260-24-240 Stewards—Responsibility to commission.
- 260-24-250 Stewards—Authority over personnel and grounds.
- 260-24-260 Stewards—Powers as to cases not covered by rules—Increased penalties.
- 260-24-270 Stewards—Supervision of entries and declarations.

- 260-24-280 Stewards—Authority to award punishment.
- 260-24-290 Stewards—Inspection of documents.
- 260-24-300 Stewards—Determining disqualifications in case of fouls.
- 260-24-310 Stewards—Duty hours—Sessions.
- 260-24-320 Stewards—Substitutes.
- 260-24-330 Stewards—Deputies.
- 260-24-340 Stewards—Stewards pro tem.
- 260-24-350 Stewards—Report of appointment of deputy.
- 260-24-360 Stewards—Number in stand during race.
- 260-24-370 Stewards—Duty to notice questionable conduct.
- 260-24-380 Stewards—Substitution of jockeys.
- 260-24-390 Stewards—Placing horse in the temporary charge of trainer.
- 260-24-400 Stewards—Getting horses to gate at post time.
- 260-24-410 Stewards—Accident before offtime—Excusing horse.
- 260-24-420 Stewards—Settlement of protests and complaints.
- 260-24-430 Stewards—Infractions—Reports to commission.
- 260-24-440 Stewards—Violation of rule other than a rule of the race—Procedure.
- 260-24-450 Timers.
- 260-24-460 Veterinarians.
- 260-24-465 Veterinarians—Disposal, sterilization of instruments.
- 260-24-470 Clocker-identifier.
- 260-24-480 Film analyst.

NEW SECTION

WAC 260-24-500 Racing officials. (1) Officials at a race meeting include the following:

- (a) Stewards;
- (b) Racing secretary;
- (c) Horsemen's bookkeeper;
- (d) Mutuel manager;
- (e) Official veterinarian;
- (f) Horse identifier;
- (g) Paddock judge;
- (h) Starter;
- (i) Association security director;
- (j) Security inspector;
- (k) State auditor;
- (l) Clerk of scales;
- (m) Jockey room supervisor;
- (n) Film analyst;
- (o) Clocker;
- (p) Race Timer
- (q) Paddock plater;
- (r) Mutuel inspector;
- (s) Any other person designated by the commission.

(2) The commission officials of a race meeting shall be designated prior to each race meeting and those commission officials shall be compensated by the commission. It is intended that the commission officials have primary responsibility for the supervisory and regulatory functions at the

track pursuant to the directions of the commission and the "rules of racing."

The association officials of a race meeting shall include but not be limited to: Racing secretary, mutuel manager, starter, paddock plater, horsemen's bookkeeper, security director, jockeys room supervisor.

(3) Eligibility.

(a) To qualify as a racing official, the appointee shall be:

- (i) Of good character and reputation;
- (ii) Experienced in racing;
- (iii) Familiar with the duties of the position and with the commission's rules of racing;
- (iv) Mentally and physically able to perform the duties of the job; and

(v) In good standing and not under suspension or ineligible in any racing jurisdiction.

(b) To qualify for appointment as a steward after January 1, 1997 the appointee shall be an Association of Racing Commissioners International-accredited steward and be in good standing with all Association of Racing Commissioners International member jurisdictions. The commission may waive this requirement for Class C race meetings.

(4) The commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing.

(5) While serving in an official capacity, racing officials and their assistants shall not:

(a) Participate in the sale or purchase, or ownership of any horse racing at the meeting;

(b) Sell or solicit horse insurance on any horse racing at the meeting;

(c) Be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards;

(d) Wager on the outcome of any race under the jurisdiction of the commission; or

(e) Consume or be under the influence of alcohol or any prohibited substances while performing official duties.

(6) Racing officials and their assistants shall report immediately to the stewards every observed violation of these rules.

(7) Complaints against officials.

(a) Complaints against any steward shall be made in writing to the commission and signed by the complainant.

(b) Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

(c) A racing official may be held responsible by the stewards or the commission for the actions of their assistants.

(7) Appointment.

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the commission.

(b) The commission shall appoint or approve the stewards at each race meeting.

(8) Where an emergency vacancy exists among racing officials, the stewards or the association, with the stewards'

approval, shall fill the vacancy immediately. Such appointment shall be reported to the commission and shall be effective until the vacancy is filled in accordance with these rules.

(9) Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards shall appoint a substitute for the absent steward. If a substitute steward is appointed, the commission and the association shall be notified by the stewards.

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

NEW SECTION

WAC 260-24-510 Stewards (1) General authority:

(a) The stewards for each meeting shall be responsible to the commission for the conduct of the race meeting in accordance with these rules.

(b) The stewards shall enforce these rules and the racing laws of this jurisdiction.

(c) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with these rules.

(d) All nominations, entries, declarations and scratches shall be conducted under the supervision of the stewards.

(e) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

(f) The stewards shall take notice of any questionable conduct with or without complaint thereof.

(g) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules.

(h) Should any case occur which may not be covered by these rules of racing, it shall be determined by the stewards of the race meeting in conformity with justice and in the interest of racing; and the stewards of the meeting are hereby given authority to exercise their full power, recommending to the commission the impositions of more severe penalties, if in their judgment the penalty should be more drastic.

(2) The stewards' period of authority shall commence 10 days prior to the beginning of each meeting and shall terminate with the completion of their business pertaining to the meeting. One of the three stewards shall be designated as the presiding steward by the commission

(3) Disciplinary action.

(a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

(b) The stewards shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(c) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

(d) The stewards may at any time inspect license documents, registration papers, and other documents related to racing.

(e) The stewards have the power to administer oaths and examine witnesses.

(f) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

(g) The stewards may impose any of the following penalties on a licensee for a violation of these rules:

- (i) Issue a reprimand;
- (ii) Assess a fine;
- (iii) Require forfeiture or redistribution of purse or award, when specified by applicable rules;
- (iv) Place a licensee on probation;
- (v) Suspend a license or racing privileges;
- (vi) Revoke a license; or
- (vii) Exclude from grounds under the jurisdiction of the commission.

(h) The stewards may suspend a license for not more than five years per violation; or they may impose a fine not to exceed \$5000 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing.

(i) The stewards shall submit a written report to the commission of every inquiry and hearing.

(j) A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(k) The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude commission action in any matter.

(l) Purses, prizes, awards, and trophies shall be redistributed if the stewards or commission order a change in the official order of finish.

(m) All fines imposed by the stewards shall be paid to the commission within 48 hours after the ruling is issued, unless otherwise ordered.

(4) Protests, objections and complaints. The stewards shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling. The stewards are vested with the power to determine the extent of disqualification in case of fouls. They may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(5) Stewards' presence.

(a) On each racing day at least one steward shall be on duty at the track from the 3 hours prior to first race post time until the close of the racing program for the day. The full board of stewards shall sit in regular session to exercise their authority and perform the duties imposed on them by the rules of racing.

(b) Three stewards shall be present in the stewards' stand during the running of each race. In case of emergency, the stewards may, during the meeting, appoint a substitute subject to the confirmation of the commission and is effective only for the day.

(6) Order of finish for parimutuel wagering.

(a) The stewards shall determine the official order of finish for each race in accordance with the rules of the race.

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the parimutuel wagering pool.

(7) The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a parimutuel pool for a race or races, if such action is necessary to protect the integrity of parimutuel wagering.

(8) Records and reports.

(a) The stewards shall prepare a daily report, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission.

(a) Not later than seven days after the last day of a race meeting, the presiding steward shall submit to the commission a written report regarding the race meeting. The report shall contain:

(i) The stewards' observations and comments regarding the conduct of the race meeting, the overall conditions of the association grounds during the race meeting; and

(ii) Any recommendations for improvement by the association or action by the commission.

(9) Stewards' list.

(a) The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing.

(b) The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse.

(c) A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

(d) A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

(10) When the stewards feel that a rule, other than a rule of the race, has been violated by any person, the procedure shall be as follows:

(a) He or she shall be summoned to a hearing before the stewards, called for that purpose.

(b) Adequate notice of said hearing shall be given the summoned party. The stewards' decision as to what is adequate notice shall be final.

(c) No penalty shall be imposed until such hearing.

(d) Nonappearance of the summoned party after adequate notice shall be construed as a waiver of right to hearing before the stewards.

(e) No special announcement of the hearing or of the alleged infraction of rules shall be made until after said hearing. Immediately after a hearing, provided the matter is settled, the stewards shall transmit their findings in the signed written statement to the commission and to the party in question. Thereafter, if a penalty is imposed for the infraction of the rules but only in the case of penalty, the commission may make a public statement.

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

NEW SECTION

WAC 260-24-520 Racing secretary. (1) The racing secretary shall be responsible for the programming of races during the race meeting, compiling and publishing condition books, assigning weights for handicap races, and shall receive all entries, subscriptions, declarations and scratches. The racing secretary may employ one or more assistants who may assist in performing the following duties. An assistant racing secretary shall assume the duties of the racing secretary in that person's absence.

(2) Foal, health and other eligibility certificates.

(a) The racing secretary shall be responsible for receiving, inspecting and safeguarding the foal and health certificates, Equine Infectious Anemia (EIA) test certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds.

(b) The racing secretary shall record the alteration of the sex of a horse on the horse's foal certificate and report such to the appropriate breed registry and past performance services.

(c) The racing secretary shall record on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse.

(3) The racing secretary shall maintain a list of nerved horses which are on association grounds and shall make the list available for inspection by other licensees participating in the race meeting.

(4) The racing secretary shall maintain a list of all fillies or mares on association grounds who have been covered by a stallion. The list shall also contain the name of the stallion to which each filly or mare was bred and shall be made available for inspection by other licensees participating in the race meeting.

(5) It shall be the duty of the racing secretary to assign to applicants such stabling as he may deem proper to be occupied by horses in preparation for racing. He/she shall determine all conflicting claims of stable privileges and maintain a record of arrivals and departures of all horses stabled on association grounds.

(6) Conditions and eligibility.

(a) The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the commission and be posted in the racing secretary's office.

(b) For the purpose of establishing conditions, winnings shall be considered to include all monies and prizes won up to the time of the start of a race.

(c) Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

(7) Listing of horses, the racing secretary shall:

(a) Examine all entry blanks to verify information as set forth therein; and

(b) Select the horses to start and the also eligible horses from those entries received in accordance with these rules.

(8) Upon completion of the draw each day, the racing secretary shall post a list of entries in a conspicuous location in his/her office and make the list available.

(9) The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(a) Sequence of races to be run and post time for the first race;

(b) Purse, conditions and distance for each race, and current track record for such distance;

(c) The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

(d) The name of the trainer and the name of the jockey named for each horse together with the weight to be carried;

(e) The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

(f) Identification of each horse by name, color, sex, age, sire and dam; and

(g) Such other information as may be requested by the association or the commission.

(10) The racing secretary shall examine nominations received for early closing events, late closing events and stakes events to verify the eligibility of all such nominations and compile lists thereof for publication.

(11) The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all entrance monies due are paid prior to entry for races conducted at the meeting.

NEW SECTION

WAC 260-24-530 Horsemen's bookkeeper. The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the association and commission may prescribe.

(1) Records.

(a) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

(b) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents.

(c) All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the association.

(d) All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the commission at any time.

(e) The association licensee is subject to disciplinary action by the commission for any violations of or non-compliance with the provisions of this rule.

(2) Monies and funds on account.

(a) All monies and funds on account with the horsemen's bookkeeper shall be maintained:

(i) separate and apart from monies and funds of the association;

(ii) in a trust account designated as Horsemen's Trust Account and

PROPOSED

(iii) in an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The horsemen's bookkeeper shall be bonded in accordance with commission stipulations.

(c) The amount of purse money earned is credited in the currency of the jurisdiction in which the race was run. There shall be no appeal for any exchange rate loss at the time of transfer of funds from another jurisdiction.

(3) Payment of purses.

(a) The horsemen's bookkeeper shall receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into his/her possession in accordance with the provisions of Commission rules.

(b) The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.

(c) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning such purse money.

(d) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing.

(e) Absent a prior request, the horsemen's bookkeeper shall disburse monies to the persons entitled to receive same within 15 days after the last race day of the race meeting, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory and provided further that no protest or appeal has been filed with the stewards or the commission.

(f) In the event a protest or appeal has been filed with the stewards or the commission, the horsemen's bookkeeper shall disburse the purse within 48 hours of receipt of dismissal or a final non-appealable order disposing of such protest or appeal.

NEW SECTION

WAC 260-24-540 Mutuel manager. The mutuel manager is responsible for the operation of the parimutuel department and shall:

(1) Be responsible for the correctness of all pay-off prices;

(2) Maintain records of all wagers and provide information regarding betting patterns;

(3) Employ licensed individuals to aid in the operation of the parimutuel department;

(4) Make emergency decisions regarding the operation of the parimutuel department;

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

NEW SECTION

WAC 260-24-550 Official veterinarian. The official veterinarian shall:

(1) Be employed by the commission;

(2) Be a graduate veterinarian and be licensed to practice in this jurisdiction;

(3) Recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;

(4) Place horses on the veterinarian's list and remove horses from the veterinarian's list;

(5) Place horses on the bleeder list and remove horses from the bleeder list;

(6) Supervise and control the test barn;

(7) Supervise the taking of all specimens for testing according to procedures approved by the commission;

(8) Provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;

(9) Provide the stewards with a written statement regarding the nature and seriousness of all laboratory reports of prohibited substances in equine samples.

(10) Have jurisdiction over the practicing licensed veterinarians within the enclosure for the purpose of these rules;

(11) Report to the commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

(12) Maintain all required records of postmortem examinations performed on horses which have died on association grounds;

(13) Be available to the stewards prior to scratch time each racing day at a time designated by the stewards to inspect any horses and report on their condition as may be requested by the stewards;

(14) Be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;

(15) Inspect any horse when there is a question as to the physical condition of such horse;

(16) Recommend scratching a horse to the stewards if, in his/her opinion the horse is physically incapable of exerting its best effort to win;

(17) Inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his/her opinion as to the cause of the distress to the stewards;

(18) Refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the Commission;

(19) Review and consult with the applicants and the stewards regarding commission license applications of practicing veterinarians;

(20) Cooperate with practicing veterinarians and other regulatory agencies to take measures to control communicable and/or reportable equine diseases;

(21) Periodically review all horse papers under the jurisdiction of the commission to ensure that all required test and health certificates are current and properly filed in accordance with these rules;

(22) Be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing the horse to so act.

NEW SECTION

WAC 260-24-560 Horse identifier. The Horse identifier shall:

(1) When required, ensure the safekeeping of registration certificates and racing permits for horses stabled and/or racing on association grounds;

(2) Inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

(3) Examine every starter in the paddock for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the Commission for comparison with its registration certificate to verify the horse's identity; and

(4) Supervise the tattooing, branding or other method of identification approved by the appropriate breed registry and the Commission for identification of any horse located on association grounds.

(5) The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

NEW SECTION

WAC 260-24-570 Paddock judge. (1) The paddock judge shall:

(a) Supervise the assembly of horses in the paddock no later than fifteen (15) minutes before the scheduled post time for each race;

(b) Maintain a written record of all equipment, inspect all equipment of each horse saddled and report any change thereof to the stewards;

(c) Prohibit any change of equipment without the approval of the stewards;

(d) Ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;

(e) Supervise paddock schooling of all horses approved for such by the stewards;

(f) Report to the stewards any observed cruelty to a horse;

(g) Ensure that only properly authorized persons are permitted in the paddock; and

(h) Report to the stewards any unusual or illegal activities.

(2) Paddock judge's list.

(a) The paddock judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.

(b) At the end of each race day, the paddock judge shall provide a copy of the List to the stewards.

(c) To be removed from the paddock judge's List, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock.

NEW SECTION

WAC 260-24-580 Starter. (1) The starter shall:

(a) Have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;

(b) Appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;

(c) Ensure that a sufficient number of assistant starters are available for each race;

(d) Assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions more than 10 minutes before post time for the race;

(e) Assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; and

(f) Load horses into the gate in any order deemed necessary to ensure a safe and fair start.

(2) Assistant starters, with respect to an official race, shall not:

(a) Handle or take charge of any horse in the starting gate without the expressed permission of the starter;

(b) Impede the start of a race;

(c) Apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;

(d) Slap, boot or otherwise dispatch a horse from the starting gate;

(e) Strike or use abusive language to a jockey; or

(f) Accept or solicit any gratuity or payment other than his/her regular salary, directly or indirectly, for services in starting a race.

(3) No horse shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling shall be under the direct supervision of the starter.

(4) The starter and assistant starter shall report all unauthorized activities to the stewards.

NEW SECTION

WAC 260-24-590 Security director, association. .

The security director shall be employed by the association and shall be directly responsible for maintaining the security and safety of the racing association's grounds. He/she shall issue daily reports to the commission security inspector outlining staffing and any incidents or occurrences which may constitute a violation of the "rules of racing". The security director shall perform other duties as designated by the board of stewards.

PROPOSED

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

NEW SECTION

WAC 260-24-600 Security inspector, commission. A security inspector shall be employed by the commission and report to the stewards and the commission executive secretary. His/her duties shall include investigation of allegations of wrongdoing and violations of the "rules of racing", presentation of cases before the stewards and other duties as set forth by the commission or the stewards.

NEW SECTION

WAC 260-24-610 State auditor. The state auditor shall be responsible for;

- (1) Verifying the calculations of the parimutuel department;
- (2) Calculating and/or verify the monetary commissions due;
- (3) Maintaining the Washington Bred Bonus Fund (including filing of tax information) and
- (4) Various accounting and auditing services as requested by the commission or the stewards.

NEW SECTION

WAC 260-24-620 Clerk of scales. The clerk of scales shall:

- (1) Verify the presence of all jockeys in the jockeys' room at the appointed time;
- (2) Verify that all such jockeys have a current jockey's license issued by the commission;
- (3) Verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately;
- (4) Oversee the security of the jockeys' room including the conduct of the jockeys and their attendants;
- (5) Promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct;
- (6) Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day;
- (7) Maintain the record of applicable winning races on all apprentice certificates at the meeting;
- (8) Release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; and
- (9) Assume the duties of the jockey room supervisor in the absence of such employee.

NEW SECTION

WAC 260-24-630 Jockey room supervisor. The jockey room supervisor shall:

- (1) Supervise the conduct of the jockeys and their attendants while they are in the jockey room;
- (2) Keep the jockey room clean and safe for all jockeys;
- (3) Ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses;

(4) Keep a daily video list as dictated by the stewards and have it displayed in plain view for all jockeys;

(5) Keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available;

(6) Keep unauthorized persons out of the jockey room; and

(7) Report to the stewards any unusual occurrences in the jockey room.

NEW SECTION

WAC 260-24-640 Film analyst. The film analyst, when utilized, shall be responsible for assisting the stewards and other commission officials in the interpretation of video coverage of each race. The analyst shall perform such other duties as are designated by the board of stewards.

NEW SECTION

WAC 260-24-650 Clocker. (1) The clocker shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

(2) Each day, the clocker shall prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout.

(3) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

NEW SECTION

WAC 260-24-660 Race timer. (1) The timer shall accurately record the time elapsed between the start and finish of each race.

(2) The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.

(3) At the end of a race, the timer shall post the official running time on the infield totalisator board.

(4) At a racetrack equipped with an appropriate infield totalisator board, the timer shall post the quarter times (splits) for races in fractions as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

(5) For back-up purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that at least three stopwatches are used by the stewards or their designees.

(6) The timer shall maintain a written record of fractional and finish times of each race and have same available for inspection by the stewards or the commission on request.

NEW SECTION

WAC 260-24-670 Paddock plater. The paddock plater shall be present in the paddock to see that all horses are properly shod. Additionally, he/she shall report horses which are wearing caulks and on which feet. With permission of the stewards the paddock plater may assume other duties as requested by the association.

NEW SECTION

WAC 260-24-680 Mutuel inspector. The mutuel inspector shall perform duties as directed by the commission.

NEW SECTION

WAC 260-24-690 Any other person designated by the commission. The Commission may create additional racing official positions, as needed. Persons selected for these positions shall be considered racing officials and shall be subject to the general eligibility requirements outlined in this chapter.

**WSR 96-09-098
PROPOSED RULES
HORSE RACING COMMISSION**

[Filed April 17, 1996, 11:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-03-145.

Title of Rule: Chapter 260-60 WAC, Claiming, rules pertaining to claiming a horse from a claiming race at the track.

Purpose: To repeal existing chapter and replace with updated rules conforming to the nationally accepted model rules. Repealing WAC 260-60-010 through 260-60-230 and replacing with WAC 260-60-300 through 260-60-470.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Changes will update and bring into conformance with nationally accepted model 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: These rule changes will update regulations pertaining to claiming of a horse out of a race at the race track. These changes will bring regulations into conformance with the nationally accepted model rules.

Proposal Changes the Following Existing Rules: These changes will repeal existing rules WAC 260-60-010 through 260-60-230 and replace the entire chapter with WAC 260-60-300 through 260-60-470. Updating regulations pertaining to claiming of a horse and bring into conformance with nationally accepted model rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These changes will not affect more than twenty percent or less than ten percent of the populations. 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 May 21, 1996, at 1:00 p.m.

Submit Written Comments to: Bruce Batson, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, FAX (360) 459-6461, by May 20, 1996.

Date of Intended Adoption: May 21, 1996.

April 17, 1996

Bruce Batson

Executive Secretary

REPEALER

The following sections of the Washington Administrative Code are Repealed.

- 260-60-010 Who may claim—Owner or agent.
- 260-60-020 Prospective owner or agent.
- 260-60-030 Limit as to number claimed.
- 260-60-040 Claims to be in amount printed on program—Disposition by lot.
- 260-60-050 Formal requisites of claim.
- 260-60-060 Deposit with association of amount of claim—Receipt credit.
- 260-60-070 Time for deposit of claim in claiming box—Claims irrevocable.
- 260-60-080 Divulging information prohibited.
- 260-60-090 Stewards to pass on claims.
- 260-60-100 Affidavit as to claim in own account or as agent.
- 260-60-110 Unlawful agreements—Intimidation.
- 260-60-115 Claim in bad faith.
- 260-60-120 Disclosure of incumbrances—Entry of mare in foal in a claiming race.
- 260-60-130 Claiming race, limit as to horses in same interest or control.
- 260-60-140 Claimed horse—In whose interest run—Delivery and passage of title.
- 260-60-150 Claimed horse—Refusal to deliver.
- 260-60-160 Claimed horse—Subsequent entry.
- 260-60-170 Claimed horse—Subsequent sale or transfer—Retention by owner.
- 260-60-180 Claimed horse—Racing elsewhere.
- 260-60-190 Claimed horse—Title recognized according to rules of meeting.
- 260-60-200 Claimed horse—Foal certificate.
- 260-60-210 Cancellation of claims.
- 260-60-230 Rules apply to all races.

NEW SECTION

WAC 260-60-300 Who may claim. Who may claim: Owner, authorized agent or prospective owner possessing a claiming certificate.

(1) In claiming races, any horse is subject to be claimed for its entered price by any owner at that meeting or by a licensed authorized agent for the account of such owner. For the purpose of this rule an "owner" shall be deemed to be an owner as defined in WAC 260-12-010. Furthermore, such owner shall be registered in good faith for racing and has had a horse or horses occupying assigned stall space for the race meeting. The right to claim shall not be forfeited even though all horses occupying such stall space may have been eliminated.

(2) In addition to the above rule, any horse is subject to be claimed by a person or a licensed authorized agent for the account of such person, providing such person has applied to and has been approved by the commission as a prospective owner and has been issued a claiming certificate. The names of persons obtaining a claiming certificate shall be prominently displayed in the offices of the commission and the racing secretary. Once the prospective owner has successfully claimed a horse he/she must secure an owner's license on a timely basis. An applicant for a claim certificate shall submit to the Stewards:

- (a) A completed application for a claiming permit and the \$25 fee;
- (b) The name of a licensed trainer who will assume the care and responsibility for any horse claimed;
- (c) The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license;
- (d) The claim certificate shall expire with the conclusion of the race meeting at which it was issued, or upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first;
- (e) A claim certificate may be renewed by the stewards during the same year with no additional fee;
- (f) A claiming certificate may be issued to a person who had been licensed as an owner during the previous calendar year.

NEW SECTION

WAC 260-60-310 Entering in a claiming race. A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

NEW SECTION

WAC 260-60-320 Limit to number. (1) No person shall claim more than one horse in any one race.

(2) No authorized agent, although representing several owners shall submit more than one claim for any one race.

(3) When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race.

(4) In claiming races not more than two horses in the same interest or under the control of the same trainer can start.

NEW SECTION

WAC 260-60-330 Claims to be in amount printed on program. The claiming price of each horse in a claiming race shall be printed on the program, and all claims for said horse shall be the amount so designated. Except as ordered by the Stewards, no claiming price may be changed after a horse has been entered for a race.

NEW SECTION

WAC 260-60-340 Disposition by lot. Should more than one claim be filed for the same horse, the claim of the horse shall be determined by lot under the direction of one or more of the stewards, or their representative.

NEW SECTION

WAC 260-60-350 Requirements for a claim. (1) Claims must be made in writing and signed by an owner, a licensed prospective owner, or an authorized agent; and

(2) Shall be made on forms and in envelopes furnished by the association and approved by the commission. Both forms and envelopes must be filled out completely, and must be sufficiently accurate to identify the claim.

(3) No money shall accompany the claim. Each person desiring to make a claim, must first establish an account with the racing association and have on deposit with the association the whole amount of the claim (including any applicable taxes). The deposit shall be in cash, or in the discretion of the association, a certified or bank cashier check.

(4) Claims shall be deposited in the claiming box at least fifteen minutes before the established post time of the race for which the claim is filed. When a claim has been filed it is irrevocable and at the risk of claimant.

(5) When a claiming certificate is to be used, that certificate must accompany the claim, or the claim may be declared void.

NEW SECTION

WAC 260-60-360 Stewards to act on claims. After deposit of the claim the stewards or their authorized representative, shall review the claim. Unless approved at such time, the claim shall be declared void. A ruling declaring a claim to be void shall be final in all respects.

NEW SECTION

WAC 260-60-370 Affidavit. The stewards may, at any time, in their discretion, require any person making a claim for a horse in any claiming race, to affirm in writing that he is claiming said horse for his own account or as authorized agent, and not for any other person.

NEW SECTION

WAC 260-60-380 Prohibited actions. (1) No official or other employee of any association shall give any information as to the filing of claims until after the race has been run.

(2) No person shall offer, or enter into an agreement, to claim or not to claim, or attempt to prevent another person from claiming, any horse in a claiming race.

(3) No person shall attempt, by intimidation, to prevent any one from running a horse in any race for which it is entered.

(4) No owner or trainer, starting a horse in any claiming race, shall make any agreement for the protection of each other's horses.

(5) A person shall not claim a horse in which he/she has a financial or beneficial interest as an owner or trainer.

(6) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(7) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

NEW SECTION

WAC 260-60-390 Claim in bad faith. If the stewards find that a person has leased, sold or entered a horse merely for the purpose of entering a claim, that claim may be declared void.

NEW SECTION

WAC 260-60-400 Entry of a filly or mare in foal. No person shall enter a filly or mare in a race when such mare is pregnant, unless prior to the time of entry the owner shall have deposited with the racing secretary a signed agreement providing that the owner will at the time of entry provide for the successful claimant of such mare, without cost, protest, or fee of any kind, a valid stallion service certificate covering the breeding of the mare. A successful claimant of a mare may file with the commission a petition for rescission of the claim if it is determined the claimed mare is pregnant and the agreement concerning the stallion service certificate was not deposited as required by this section. An in-foal filly or mare shall be eligible to be entered into a claiming race only if the following conditions are fulfilled:

(1) Full disclosure of such fact is on file with the racing secretary and such information is posted in his/her office;

(2) The stallion service certificate has been deposited with the racing secretary's office and attached to the horse's foal registration certificate;

(3) All payments due for the service in question and for any live progeny resulting from that service are paid in full.

(4) No filly or mare in foal may race, in a claiming race, after the fifth month of pregnancy.

NEW SECTION

WAC 260-60-410 Claimed horse—In whose interest run—Delivery and passage of title. Every horse claimed shall run in the interest and for the account of the owner who entered it in the race, but title to the claimed horse shall be vested in the successful claimant from time said horse becomes a "starter". Henceforth, the successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured during the race or after it. Transfer of possession of a claimed horse shall take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the successful claimant or his/her representative shall maintain physical custody of the claimed horse. However, the original owner, trainer or his/her representative shall accompany the horse, observe the testing procedure and sign the test sample tag.

NEW SECTION

WAC 260-60-420 Claimed horse—Refusal to deliver. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore, the horse in question shall be disqualified until delivery is made.

NEW SECTION

WAC 260-60-430 Claimed horse—Subsequent entry. A claimed horse, which won the race from which it was claimed, shall not enter for thirty days after being claimed in a race in which the determining eligibility price is less than 25% more than the price at which the horse was claimed. The day claimed shall not count but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the 31st calendar day following the claim for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper.

NEW SECTION

WAC 260-60-440 Claimed horse—Subsequent sale or transfer—Retention by owner. If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a claiming race, for a period of 30 days from date of claim, nor shall it, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period.

NEW SECTION

WAC 260-60-450 Claimed horse—Title recognized according to rules of meeting. When a horse is claimed at a recognized meeting under rules which are at variance with these rules, title to such horse shall be recognized in Washington to follow the rules of the meeting under which the claim was made.

NEW SECTION

WAC 260-60-460 Cancellation of claims. If within thirty days from the running of the race, in which a horse is claimed, the stewards find that a claim was made in violation of the rules of racing the stewards may disallow and cancel any such claim and order the return of the horse and the claim payment. In deciding whether to cancel a claim the stewards shall consider which party was at fault, the status of the horse at the time the claiming violation is discovered, and such other factors as appropriate. Should the stewards cancel a claim, they may order, as appropriate, payment for the care and maintenance of the horse involved. The stewards may refer to the commission for further action any case involving a violation of the rules of racing with respect to a claim regardless of whether the stewards deem it appropriate to order the cancellation of the claim.

NEW SECTION

WAC 260-60-470 Rules apply to all races. These rules shall apply to all races under the jurisdiction of the commission.

WSR 96-09-099
PROPOSED RULES
FOREST PRACTICES BOARD

[Filed April 17, 1996, 11:30 a.m.]

Supplemental Notice to WSR 94-17-156, 95-04-073, 95-14-028, 95-24-093, 96-04-076, and 96-05-090.

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. The only change to the proposal is the addition of a second alternative for the Hoh-Clearwater/Coastal Link SOSEA.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050.

Statute Being Implemented: Chapter 76.09 RCW.

Summary: Proposed Rules for the Northern Spotted Owl: Citation of existing rules amended by this order: WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, and 222-30-100. New sections added: WAC 222-10-040, 222-10-041, 222-16-085, 222-16-086, 222-16-100, and 222-30-065.

Proposed Rules for the Marbled Murrelet: Citation of existing rules amended by this order: Occupied Stand Approach: WAC 222-16-010 and 222-16-080; and Marbled Murrelet Watershed Administrative Unit Approach: WAC 222-16-010 and 222-16-080.

Reasons Supporting Proposal: Both of these species are listed as threatened by the United States Fish and Wildlife Service and by the state Fish and Wildlife Commission. The Forest Practices Board is required to identify forest practices which have the potential for a substantial impact on the environment.

Name of Agency Personnel Responsible for Drafting: Judith Holter, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1412; Implementation and Enforcement: John Edwards, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1730.

Name of Proponent: Forest Practices Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These proposed rules identify critical wildlife habitat (state) for two threatened species: The northern spotted owl and the marbled murrelet. Any applications for forest practices within such habitat are classed as Class IV-Special and require additional environmental review in order to identify the potential for substantial material damage to public resources. The proposal's purpose is to identify and classify as Class IV-Special all forest practices that have the potential for a substantial adverse impact on the environment because of impacts on northern spotted owls and marbled murrelets. The northern spotted owl alternative was developed through the TFW process; it replaces the three alternatives originally proposed by the board in 1994. The rule identifies critical wildlife habitat (state). It also places restrictions on certain forest practices to minimize disturbance impacts on the northern spotted owl. Two alternatives are proposed for the marbled murrelet: (1) The occupied

stand approach; and (2) the marbled murrelet watershed administrative unit approach. Both approaches identify critical wildlife habitat (state). The Forest Practices Board is soliciting public comments on these alternatives. A supplemental draft environmental impact statement on the spotted owl alternative will be available prior to the public hearing. A final environmental impact statement on both species will be published at least seven days prior to adoption of the rules. (Note: A draft environmental impact statement on the original alternatives proposed by the board was published in January 1995. For copies of environmental documents, contact the Forest Practices Board secretary at the address listed below.)

Proposal Changes the Following Existing Rules: Changes to existing rules include:

The northern spotted owl alternative: Designates ten spotted owl special emphasis areas (SOSEAs); identifies the goals for each SOSEA via a map showing dispersal support, demographic support, or a combination of the two; provides planning processes, including landowner option plans (LOP) and cooperative habitat enhancement agreements (CHEA), that are opportunities for landowners to have more flexibility than might be available under SEPA; sets the SEPA trigger both within and outside of SOSEAs, and lists exemptions to SEPA; identifies disturbance factors within SOSEAs during nesting season; and provides for a small parcel exemption under certain conditions.

For the marbled murrelet, each alternative: Includes several new definitions; and identifies critical wildlife habitat (state).

A small business economic impact statement has been prepared under chapter 19.85 RCW. Small business economic impact statement reference: Filed as WSR 95-24-096. Published in Issue 96-01.

A copy of the statement may be obtained by writing to Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, FAX (360) 902-1784.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. A statement of proposed rule making under RCW 34.05.320 for this rule making was filed prior to July 23, 1995. See WSR 94-17-156.

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on May 21, 1996, at 8 a.m.

Assistance for Persons with Disabilities: Contact Forest Practices Board Recording Secretary by May 10, 1996, TDD (360) 902-1431, or (360) 902-1413.

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 May 21, 1996.

Date of Intended Adoption: May 22, 1996.

April 16, 1996
 Jennifer M. Belcher
 Commissioner of Public Lands

NORTHERN SPOTTED OWL PROPOSED RULE

Proposed by the
Forest Practices Board - November 8, 1995

Supplemental Notice - April 11, 1996

NEW SECTION

WAC 222-10-040 Class IV-Special threatened and endangered species SEPA policies. In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

(1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected landowners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the department does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.

(4) The department shall consider the species-specific policies in WAC 222-10-041 when reviewing and evaluating SEPA documents and the impacts of forest practices.

NEW SECTION

WAC 222-10-041 Northern spotted owls. The effective date of this section is July 1, 1996. The following policies shall apply to forest practices subject to SEPA if the forest practices may cause adverse impacts to northern spotted owls.

(1) **In SOSEAs or areas of SOSEAs where the goal is demographic support,** suitable spotted owl habitat should be maintained either to protect the viability of the owl(s) associated with each northern spotted owl site center or to provide demographic support for that particular SOSEA as described in the SOSEA goals.

(2) **In SOSEAs or areas of SOSEAs where the goal is dispersal support,** either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or dispersal habitat should be managed, over time, to provide the dispersal support for that particular SOSEA as described in the SOSEA goals. Dispersal support is provided by a landscape which includes dispersal habitat at the stand level interspersed with areas of higher quality habitat. Stands of dispersal habitat should be managed to reduce gaps between stands and to maintain a sufficient level of dispersal habitat to meet the SOSEA goals over time.

(3) **In SOSEAs or areas of SOSEAs where the goal is a combination of dispersal support and demographic support,** either suitable spotted owl habitat should be maintained to protect the viability of the owl(s) associated with each northern spotted owl site center or a variety of habitat conditions should be provided which in total are more than dispersal support and less than demographic support. This can be accomplished by providing:

(a) Dispersal support as described in subsection (2) of this section;

(b) Areas of suitable spotted owl habitat that contain some opportunities for nesting as well as roosting and foraging habitat; and

(c) Connectivity between areas of SOSEAs designated for demographic support or adjacent federal lands which are designated as late successional reserves, congressionally reserved areas, or administratively withdrawn areas.

(4) **Within SOSEAs,** the following amounts of suitable habitat are generally assumed to be necessary to maintain the viability of the owl(s) associated with each northern spotted owl site center, in the absence of more specific data or a mitigation plan, as provided for in subsections (6) and (7) of this section respectively:

(a) All suitable spotted owl habitat within 0.7 mile of each northern spotted owl site center;

(b) Including the suitable spotted owl habitat identified in (a) of this subsection:

(i) For the Hoh-Clearwater/Coastal Link SOSEA - A total of 5,863 acres of suitable spotted owl habitat within the median home range circle (2.7 mile radius).

(ii) For all other SOSEAs - A total of 2,605 acres of suitable spotted owl habitat within the median home range circle (1.8 mile radius).

The department shall first identify the highest quality suitable spotted owl habitat for this purpose. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable habitat. Suitable spotted owl habitat identified outside 0.7 mile of a northern spotted owl site center may support more than one median home range circle.

Suitable spotted owl habitat harvested by a landowner shall continue to be counted as part of the total acres necessary under (b) of this subsection for other landowners within the median home range circle if the harvest is conducted pursuant to agreements or plans approved under subsection (6) of this section or WAC 222-16-080 (1)(h)(iv), (6)(a), (b), or (e).

(5) **Outside SOSEAs,** during the nesting season (between March 1 and August 31), seventy acres of the highest quality suitable spotted owl habitat surrounding a northern spotted owl site center. The seventy acres for one site center shall not be utilized for meeting suitable habitat needs of any other site center.

(6) The assumptions set forth in subsection (4) of this section are based on regional data. Applicants may submit information that is more current, accurate, or specific to a northern spotted owl site center, proposal, or SOSEA circumstances or goals. The department shall use such information in making its determinations under this section where the department finds, in consultation with the department of fish and wildlife, that the information is more likely to be valid for the particular circumstances than the assump-

tions established under subsection (4) of this section. If the department does not use the information, it shall explain its reasons in writing to the applicant.

(7) The department shall consider measures to mitigate identified adverse impacts of an applicant's proposal. Mitigation measures must contribute to the achievement of SOSEA goals or to supporting the viability of impacted northern spotted owl site centers.

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6

months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative spotted owl habitat enhancement agreement (CHEA)" see WAC 222-16-100(2).

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat

found within RMZs, WMZs or other required and voluntary leave areas.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hard-stem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected

from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;
Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
Large organic debris;
Shading; and
Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same

general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"**Notice to comply**" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"**Old forest habitat**" see WAC 222-16-085 (1)(a).

"**Operator**" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"**Ordinary high-water mark**" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"**Other forest chemicals**" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"**Park**" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"**Partial cutting**" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"**Pesticide**" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"**Plantable area**" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"**Power equipment**" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"**Public resources**" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"**Rehabilitation**" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"**Relief culvert**" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"**Resource characteristics**" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"**Riparian management zone**" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"**Rodenticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"**Scarification**" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"**SOSEA goals**" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of

development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of

PROPOSED

wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of ((suitable)) nesting, ((breeding)) roosting, and foraging habitat surrounding the ((activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife)) northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) Within a SOSEA boundary (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) Within the Entiat SOSEA, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area or on adjacent federal lands.

(iii) Outside of a SOSEA, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) Small parcel northern spotted owl exemption. Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted

owl site center shall not be considered to be within critical wildlife habitat (state) for northern spotted owls.

~~((This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.~~

~~The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 Pair or reproductive—the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 Two birds, pair status unknown—the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.~~

~~Status 3 Resident territorial single—the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).))~~

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) ~~((A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.~~

~~((3)) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:~~

~~None listed.~~

~~((4)) (3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be~~

added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

~~((5))~~ (4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection ~~((3))~~ (2) of this section. See WAC 222-16-050 (1)(b)(ii).

~~((6))~~ (5)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend ~~((by May 1993))~~ a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

~~((7))~~ (6) Regardless of any other provision in this section, ~~((the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:~~

~~(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or))~~ forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536(b) or 1539(a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wild-

life Service or National Marine Fisheries Service; or a "no-take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

~~((Forest practices covered by))~~ A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative spotted owl habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-100(2).

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. If so, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

NEW SECTION

WAC 222-16-085 Northern spotted owl habitats. (1) **Suitable spotted owl habitat** means forest stands which meet the description of old forest habitat, sub-mature habitat or young forest marginal habitat found in (a) and (b) of this subsection. Old forest habitat is the highest quality, followed in descending order by sub-mature habitat and young forest marginal habitat.

(a) **Old forest habitat** means habitat that provides for all the characteristics needed by northern spotted owls for nesting, roosting, foraging, and dispersal, described as stands with:

(i) A canopy closure of 60% or more and a layered, multispecies canopy where 50% or more of the canopy closure is provided by large overstory trees (typically, there should be at least 75 trees greater than 20 inches dbh per

acre, or at least 35 trees 30 inches dbh or larger per acre); and

(ii) Three or more snags or trees 20 inches dbh or larger and 16 feet or more in height per acre with various deformities such as large cavities, broken tops, dwarf mistletoe infections, and other indications of decadence; and

(iii) More than two fallen trees 20 inches dbh or greater per acre and other woody debris on the ground.

(b) **Sub-mature habitat and young forest marginal habitat.** Sub-mature habitat provides all of the characteris-

tics needed by northern spotted owls for roosting, foraging, and dispersal. Young forest marginal habitat provides some of the characteristics needed by northern spotted owls for roosting, foraging, and dispersal. Sub-mature habitat and young forest marginal habitat stands can be characterized based on the forest community, canopy closure, tree density and height, vertical diversity, snags and cavity trees, dead and down wood, and shrubs or mistletoe infection. They are described in the following tables:

(i) Western Washington spotted owl sub-mature and young forest marginal habitat characteristics.

Characteristic	Habitat Type	
	Sub-Mature	Young Forest Marginal
Forest Community	conifer-dominated <i>or</i> conifer-hardwood (greater than or equal to 30% conifer)	conifer-dominated <i>or</i> conifer-hardwood (greater than or equal to 30% conifer)
Canopy Closure	greater than or equal to 70% canopy closure	greater than or equal to 70% canopy closure
Tree Density and Height	115-280 trees/acre (greater than or equal to 4 inches dbh) with dominants/codominants greater than or equal to 85 feet high OR	115-280 trees/acre (greater than or equal to 4 inches dbh) with dominants/codominants greater than or equal to 85 feet high OR
Vertical Diversity	dominants/codominants greater than or equal to 85 feet high with 2 or more layers and 25 - 50% intermediate trees	dominants/codominants greater than or equal to 85 feet high with 2 or more layers and 25 - 50% intermediate trees
Snags/Cavity Trees	greater than or equal to 3/acre (greater than or equal to 20 inches dbh and 16 feet in height)	greater than or equal to 2/acre (greater than or equal to 20 inches dbh and 16 feet in height) OR
Dead, Down Wood	N/A	greater than or equal to 10% of the ground covered with 4 inch diameter or larger wood, with
Shrubs	N/A	25-60% shrub cover

The values indicated for canopy closure and tree density may be replaced with a quadratic mean diameter of greater than 13 inches and a basal area of greater than 100.

(ii) Eastern Washington spotted owl sub-mature and young forest marginal habitat characteristics.

PROPOSED

PROPOSED

Characteristic	Habitat Type		
	Sub-Mature	Young Forest Marginal (closed canopy)	Young Forest Marginal (open canopy)
Forest Community	greater than or equal to 40% fir	greater than or equal to 40% fir	greater than or equal to 40% fir
Tree Density and Height	110-260 trees/acre (greater than or equal to 4 inches dbh) with	100 - 300 trees/acre (greater than or equal to 4 inches dbh)	100 - 300 trees/acre (greater than or equal to 4 inches dbh)
	dominants/codominants greater than or equal to 90 feet high OR	dominants/codominants equal to or greater than 70 feet high	dominants/codominants equal to or greater than 70 feet high
Vertical Diversity	dominants/codominants greater than or equal to 90 feet high with 2 or more layers and	2 or more layers	2 or more layers
	25 - 50% intermediate trees	25 - 50% intermediate trees	25 - 50% intermediate trees
Canopy Closure	greater than or equal to 70% canopy closure	greater than or equal to 70% canopy closure	greater than or equal to 50% canopy closure
Snags/Cavity Trees	greater than or equal to 3/acre (greater than or equal to 20 inches dbh 16 feet in height) OR	N/A	2/acre or more (greater than or equal to 20 inches dbh 16 feet in height)
Mistletoe	high or moderate infection	N/A	high or moderate infection
Dead, Down Wood	greater than or equal to 5% of the ground covered with 4 inch diameter or larger wood	N/A	N/A

The values indicated for canopy closure and tree density may be replaced with the following:

- (A) For sub-mature a quadratic mean diameter of greater than 13 inches and a relative density of greater than 44;
- (B) For young forest marginal a quadratic mean diameter of greater than 13 inches and a relative density of greater than 28.

(2) **Spotted owl dispersal habitat** means habitat stands that provide the characteristics needed by northern spotted owls for dispersal. Such habitat provides protection from the weather and predation, roosting opportunities, and clear space below the forest canopy for flying. Timber stands that provide for spotted owl dispersal have the following characteristics:

- (a) **For western Washington**, timber stands 5 acres in size or larger with:
 - (i) 70% or more canopy cover; and
 - (ii) 70% or more of the stand in conifer species greater than 6 inches dbh; and
 - (iii) A minimum of 130 trees per acre with a dbh of at least 10 inches or a basal area of 100 square feet of 10 inch dbh or larger trees; and
 - (iv) A total tree density of 300 trees per acre or less; and
 - (v) A minimum of 20 feet between the top of the understory vegetation and the bottom of the live canopy, with the lower boles relatively clear of dead limbs.
- (b) **For eastern Washington**, timber stands 5 acres in size or larger with:
 - (i) 50% or more canopy closure; and
 - (ii) A minimum of 50 conifer trees per acre, with a dbh of 6 inches or more in even-aged stands or 4 inches or more

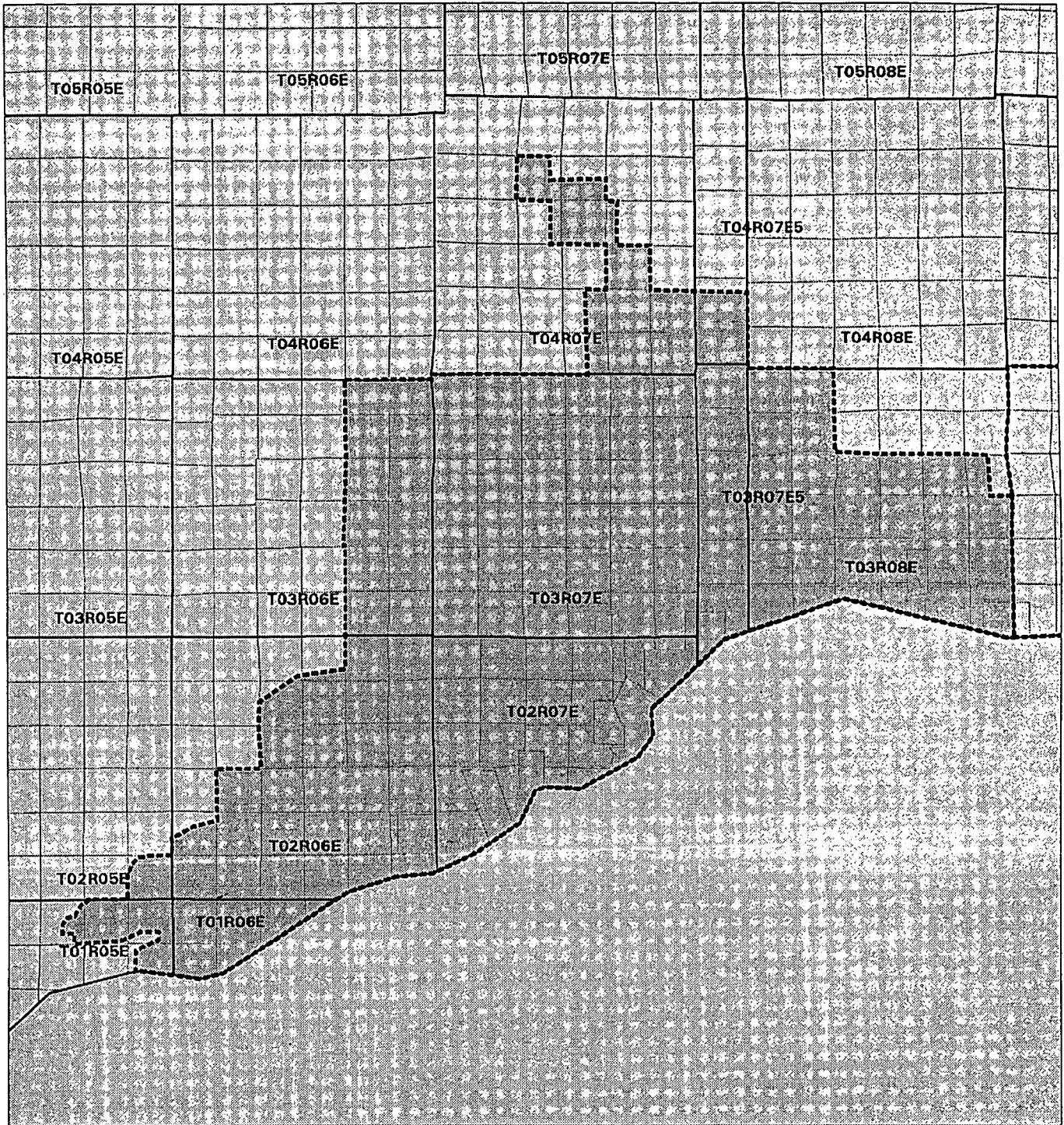
in uneven-aged stands, and an average tree height of 65 feet or more; and

- (iii) Total tree density of 200 trees per acre or less; and
 - (iv) A minimum of 20 feet between the top of the understory vegetation and the bottom of the live canopy, with the lower boles relatively clear of dead limbs; or
 - (v) Conifer stands with a quadratic mean diameter of 9 inches or more and a relative density of 33 or more or a canopy closure of 55% or more.
- (c) Suitable spotted owl habitat provides all of the required characteristics needed by spotted owls for dispersal.
- (d) Landowners may submit information to support an alternate definition of dispersal habitat for review and approval by the department in consultation with the department of fish and wildlife.





NEW SECTION

WAC 222-16-086 Northern spotted owl special emphasis areas and goals. "Spotted owl special emphasis areas (SOSEA)" means the following geographic areas and the associated goals as mapped. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

(1) Columbia Gorge SOSEA

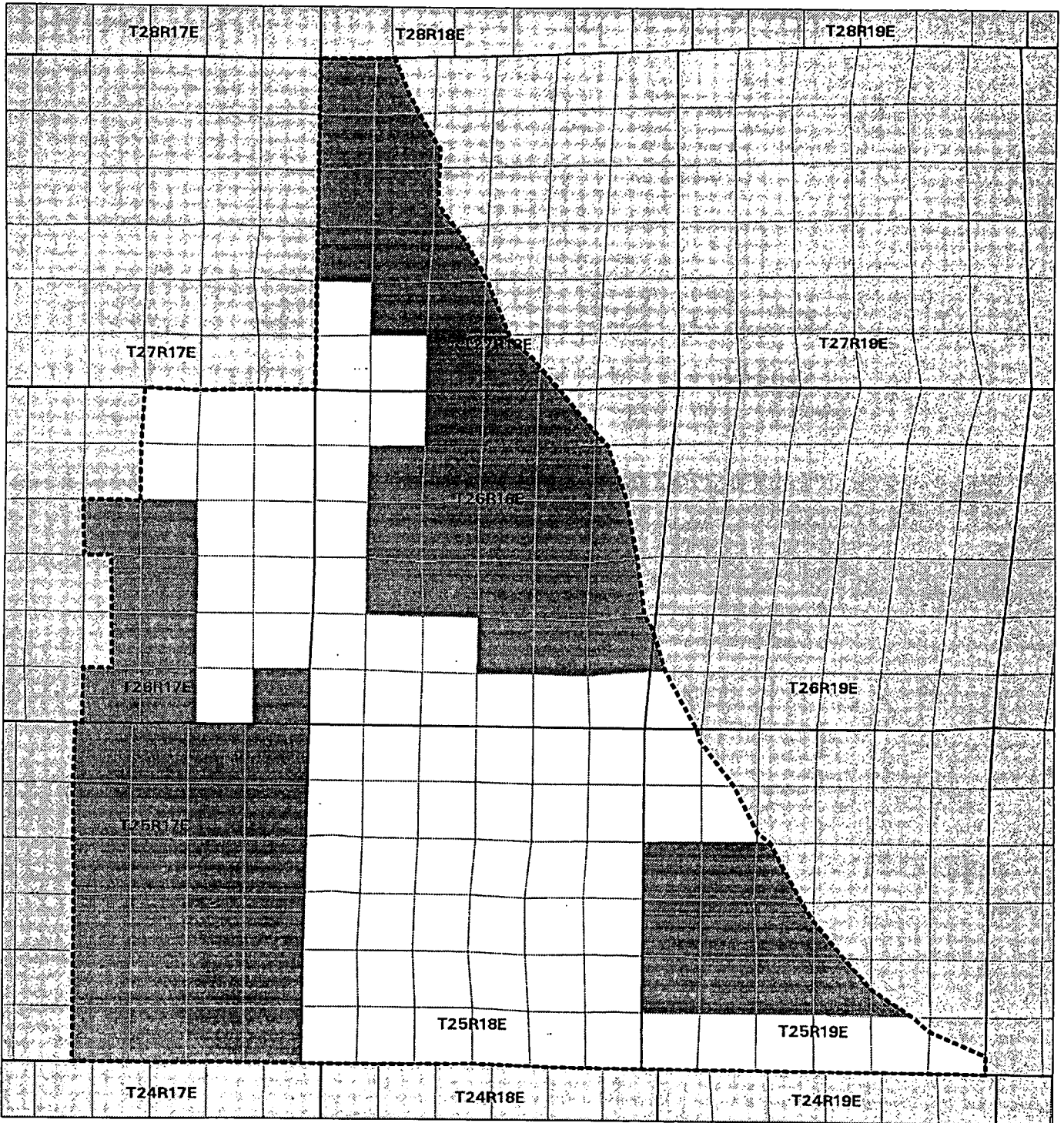






PROPOSED

-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

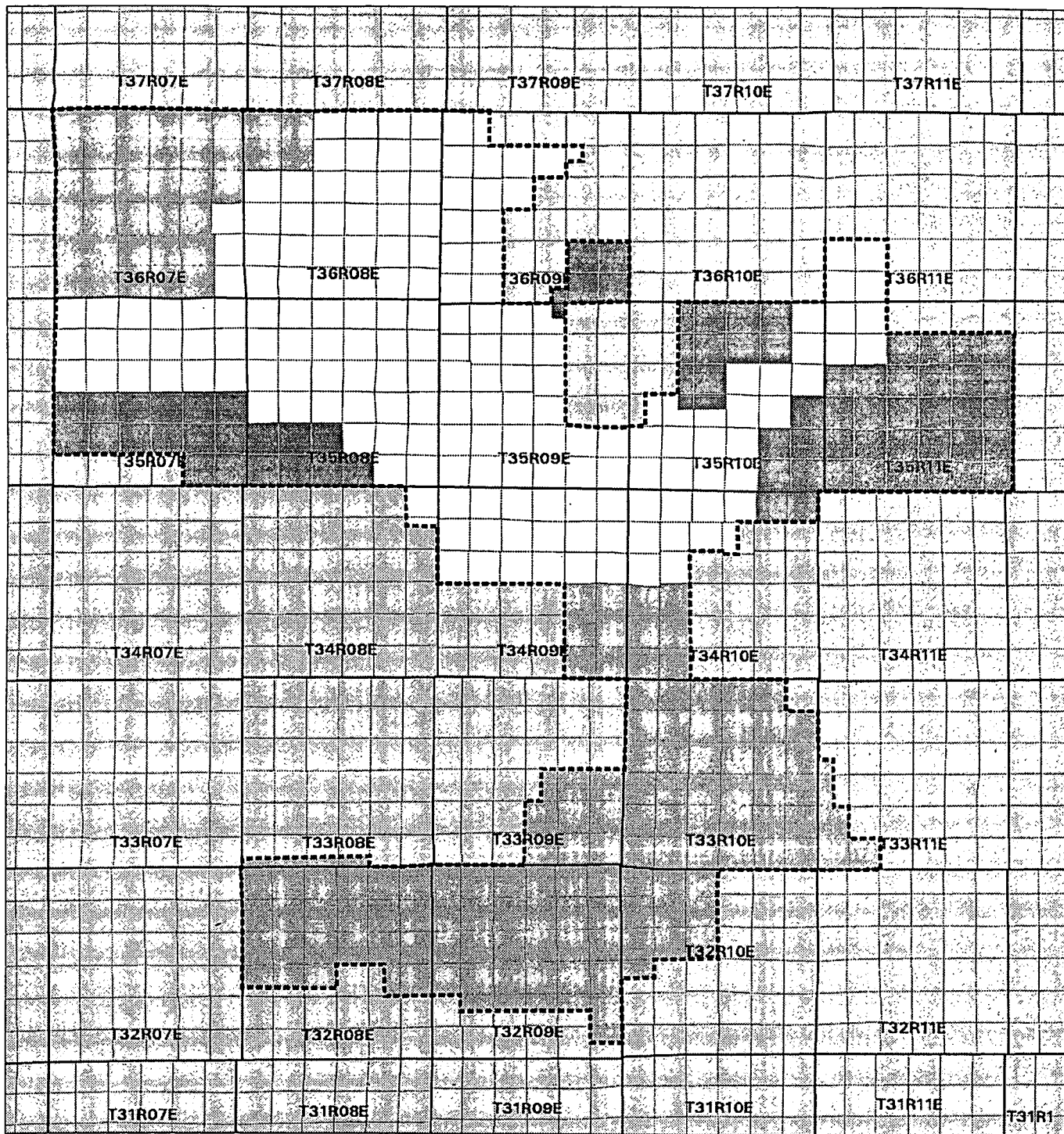
(2) Entiat SOSEA





PROPOSED



-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

(3) Finney Block SOSEA



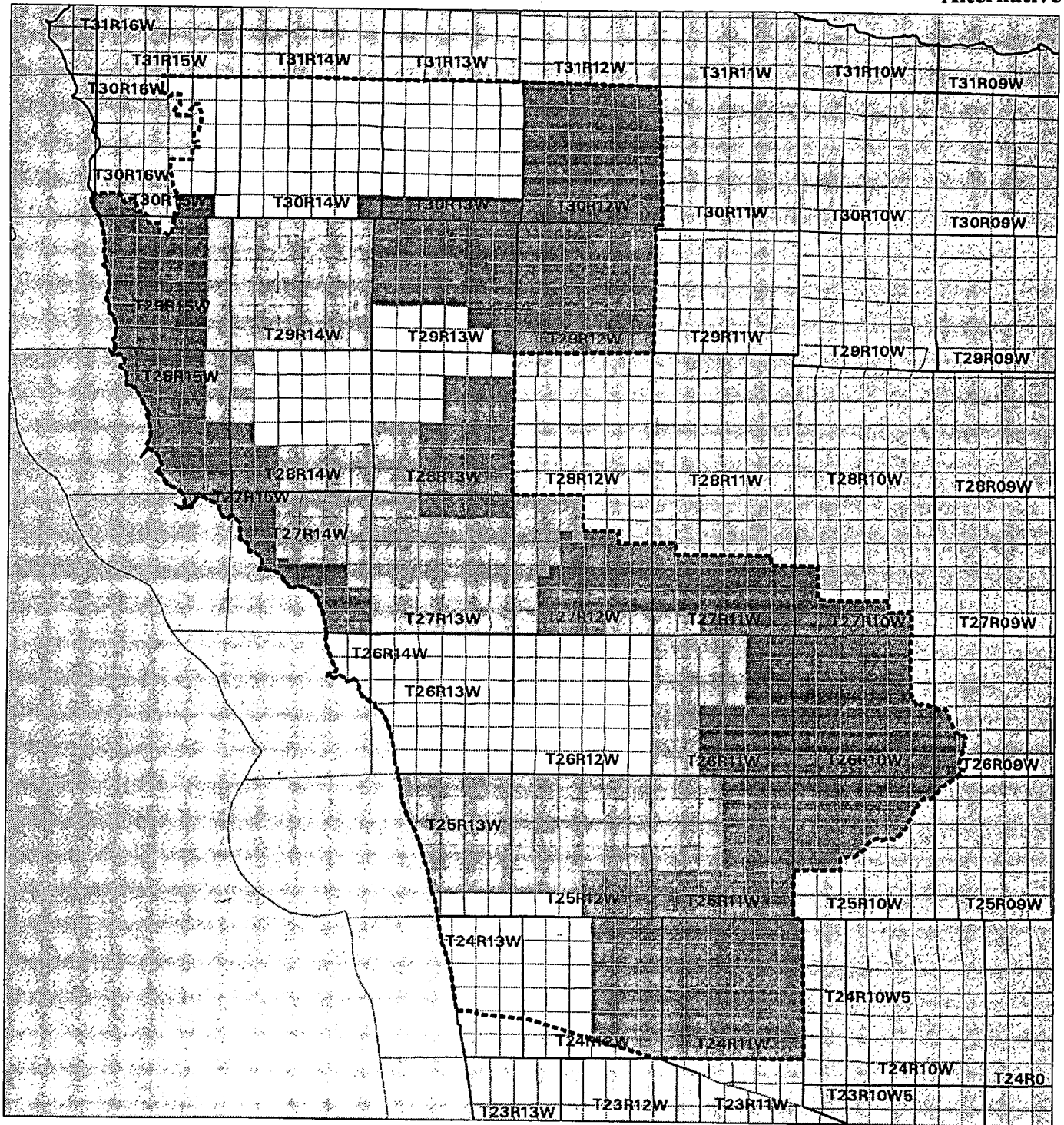
-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary





PROPOSED

(4) Hoh-Clearwater/Coastal Link SOSEA

Original
Alternative

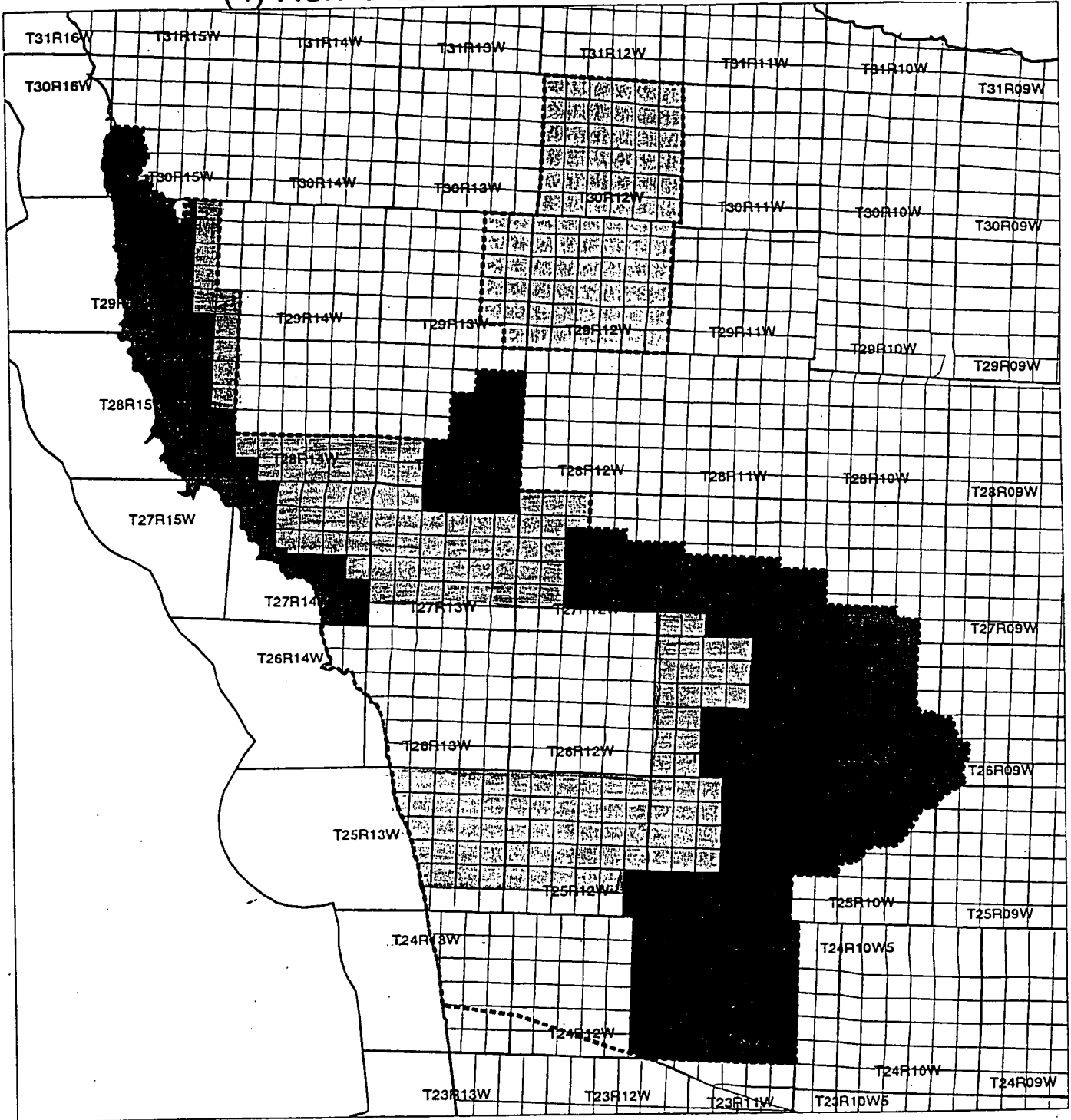
PROPOSED







-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

Second Alternative

(4) Hoh-Clearwater/Coastal Link SOSEA

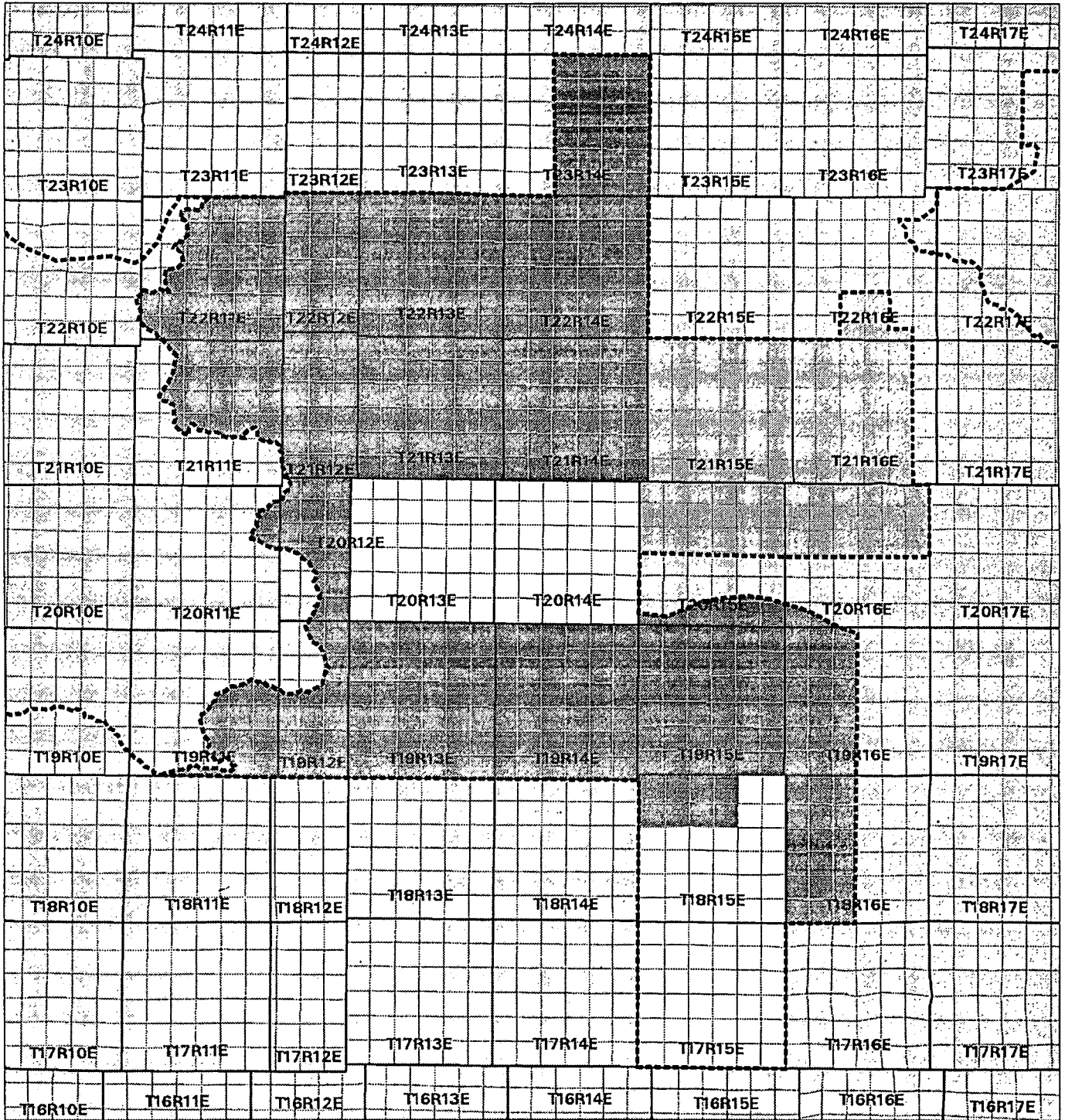






-  Demographic support
-  Dispersal support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

PROPOSED

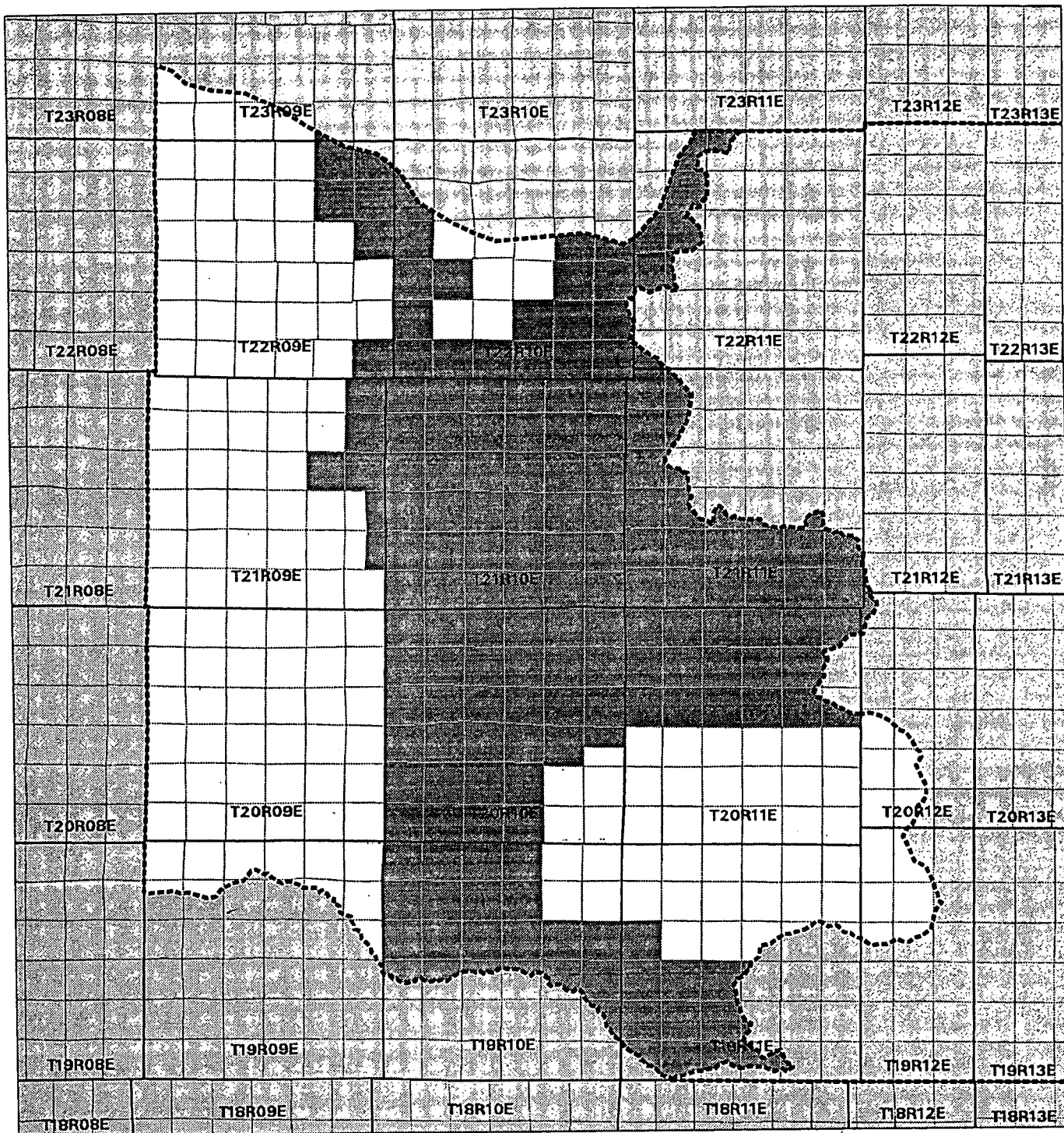
(5) I-90 East SOSEA

PROPOSED



-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

(6) I-90 West SOSEA

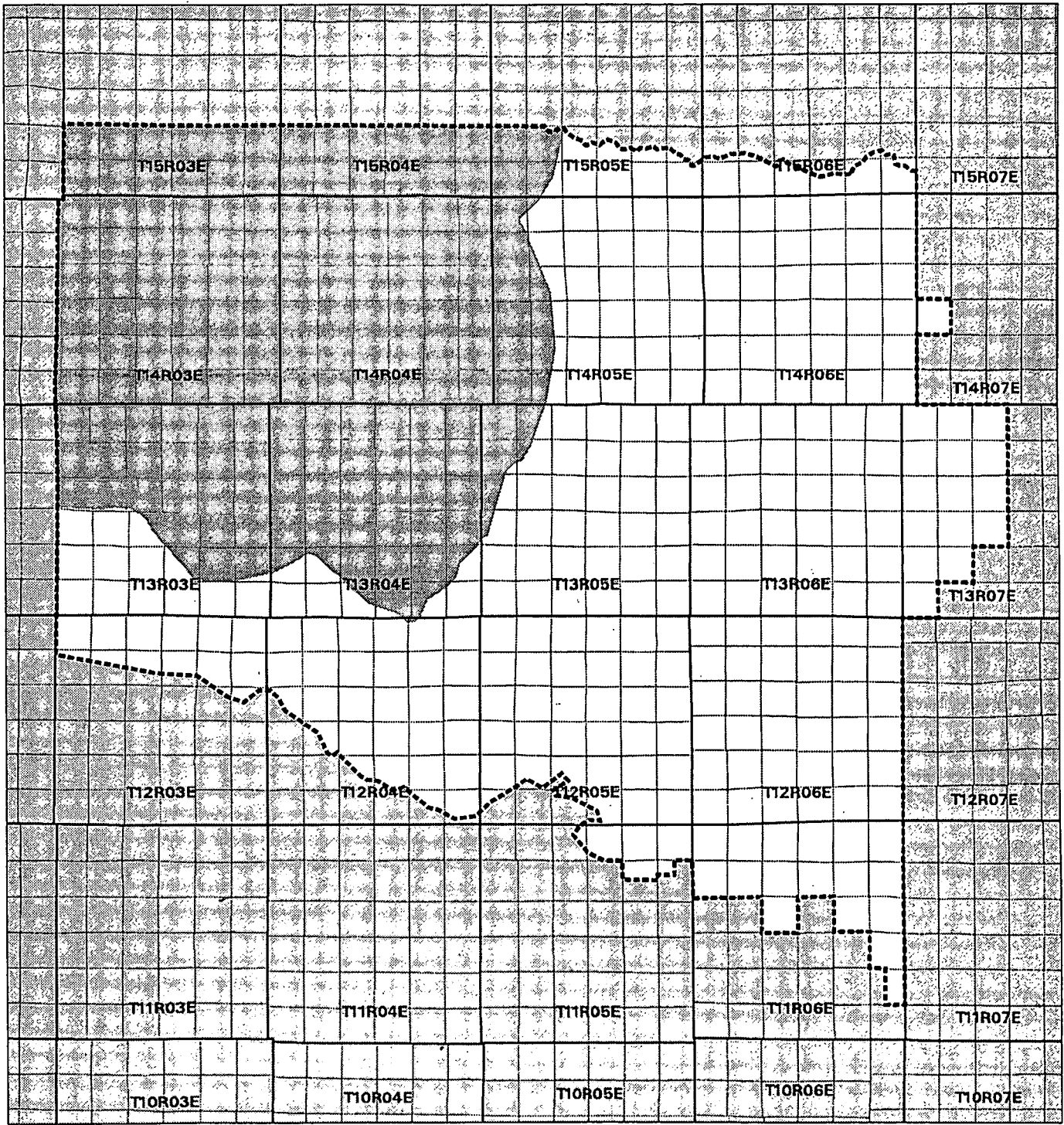






- Demographic Support
- Dispersal Support
- Combination of Dispersal Support and Demographic Support
- SOSEA Boundary

PROPOSED

(7) Mineral Block/Link SOSEA

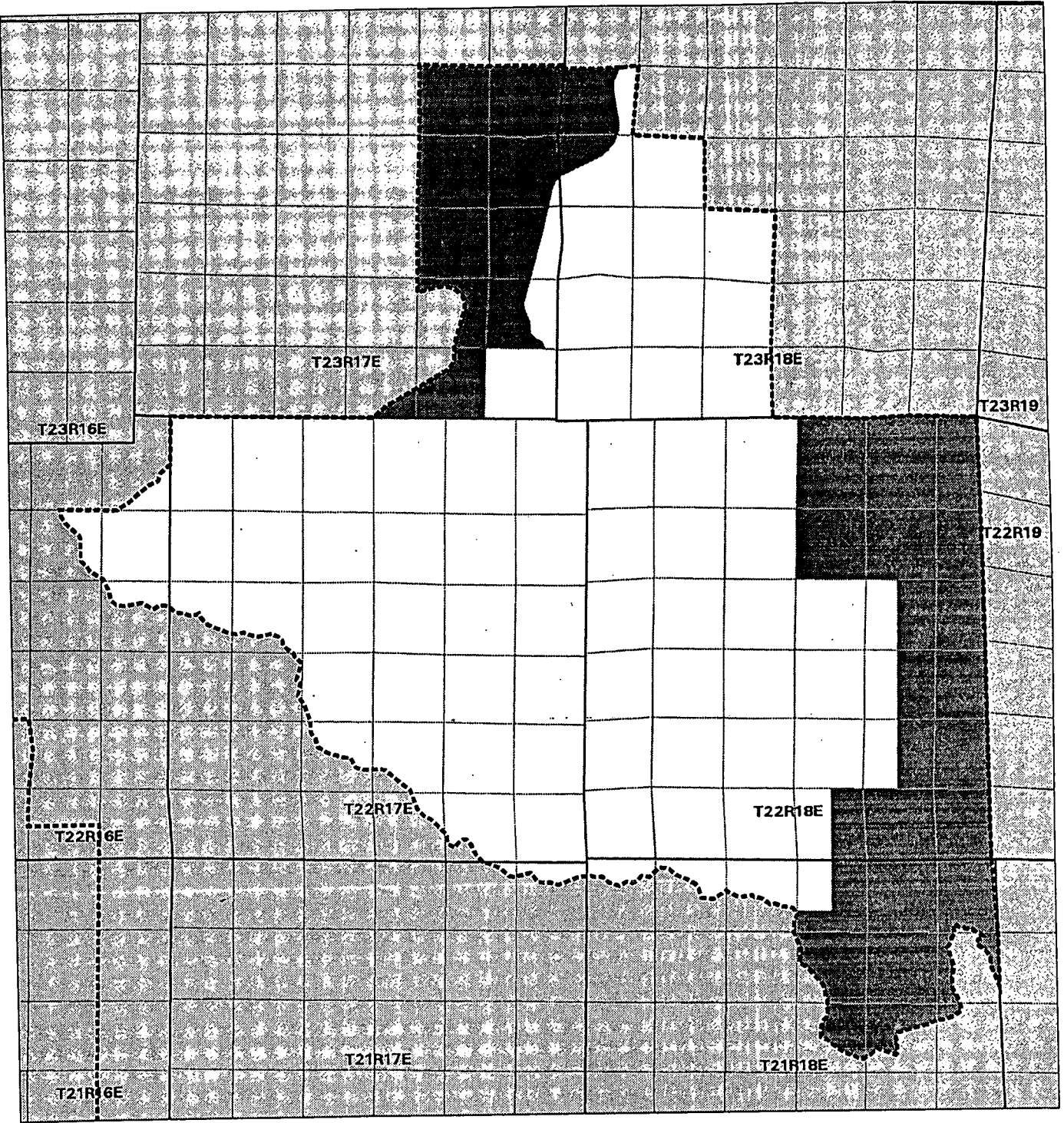
PROPOSED







-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

(8) North Blewett SOSEA

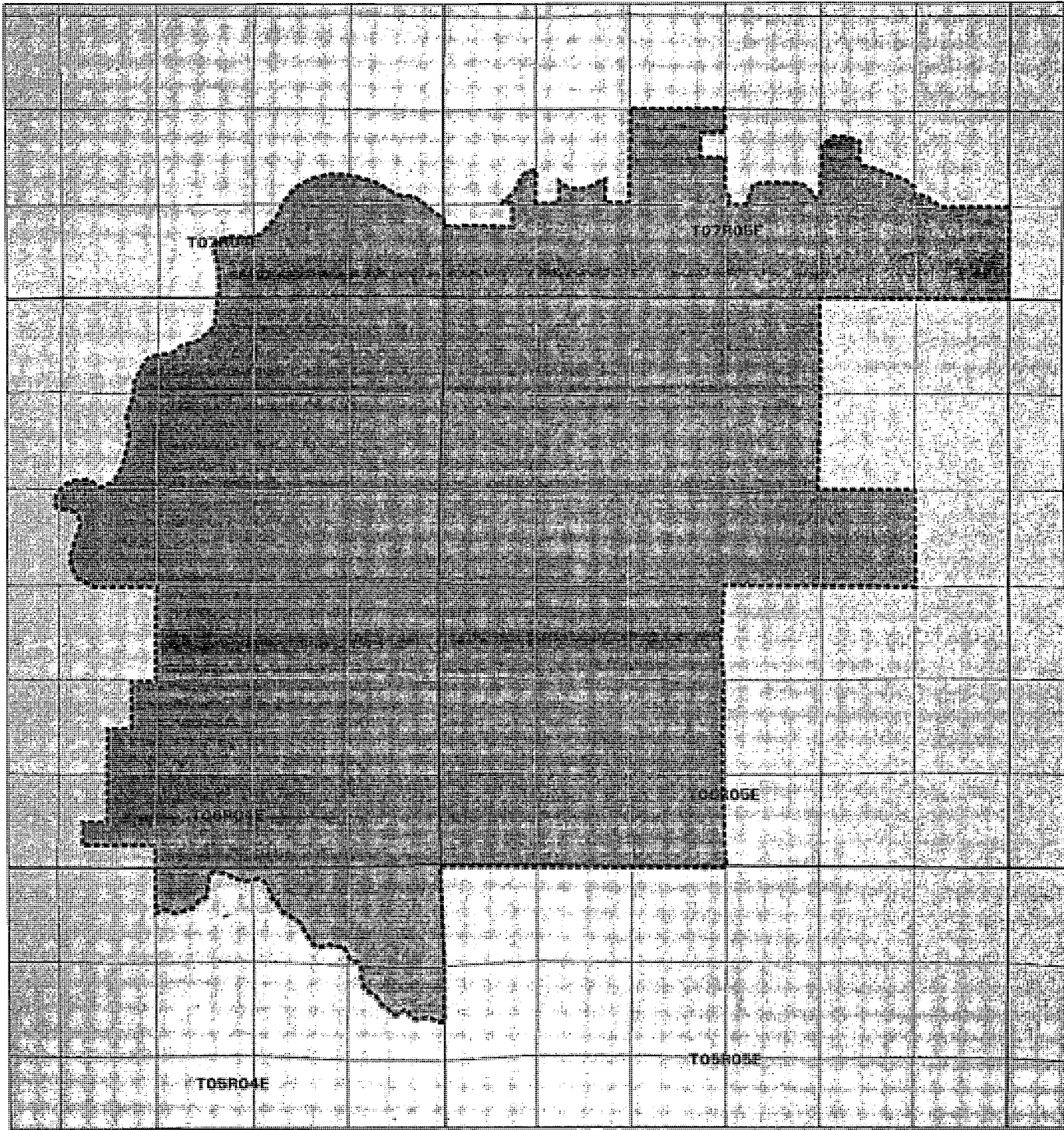
PROPOSED







-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

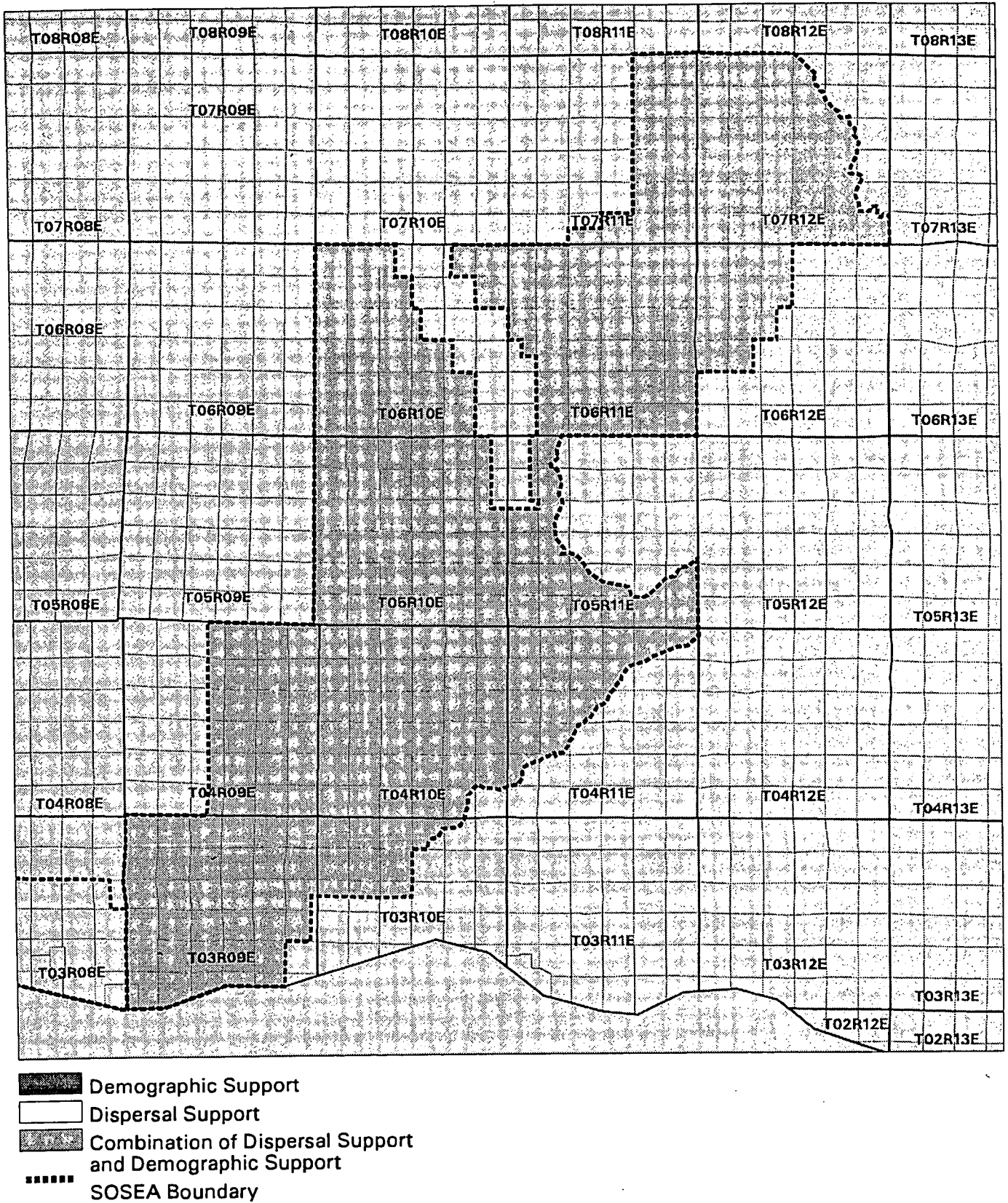
(9) Siouxon SOSEA

PROPOSED



-  Demographic Support
-  Dispersal Support
-  Combination of Dispersal Support and Demographic Support
-  SOSEA Boundary

(10) White Salmon SOSEA



PROPOSED

NEW SECTION

WAC 222-16-100 Planning options for the northern spotted owl. (1) **Landowner option plans for the northern spotted owl.** Landowner option plans (LOPs) are intended to provide landowners with a mechanism, entered into voluntarily, to contribute to the protection of northern spotted owls by considering the needs of overall population maintenance or dispersal habitat across a defined geographic area. LOPs should be designed to achieve an appropriate contribution from nonfederal lands toward meeting SOSEA goals and are intended to be an efficient and effective alternative to site-by-site management planning. In eastern Washington, LOPs must also consider the need to protect the forests from catastrophic loss from wildfire, insects, and diseases. Forest practices applications that are in an area covered by an LOP, and that are consistent with the LOP, will not be classified as Class IV-Special on the basis of critical wildlife habitat (state) or critical habitat (federal) for the northern spotted owl. This does not preclude classification as Class IV-Special because of the presence of other factors listed in WAC 222-16-050(1).

(a) **Required elements of LOPs.** The level of detail to be included in a LOP will depend on the area of ownership involved, the time period for which the plan will be in effect, and the complexity of the management strategy. Nevertheless, each plan shall contain the elements set forth in this subsection.

(i) **Goals and objectives.** The specific goals and objectives for the landowner's contributions proposed under the LOP shall be developed by the landowner and approved by the department in consultation with the department of fish and wildlife based on the following:

(A) Mitigation under the plan must be reasonable and capable of being accomplished; and

(B) To the maximum extent practicable, the plan must minimize and mitigate significant adverse impacts caused by, and identified in, the plan on individual northern spotted owl site centers or the ability of the SOSEA to meet SOSEA goals. Specific short (one to five-year) and long (greater than five-year) term goals and objectives for the LOP should be clearly stated, where applicable.

(ii) **Other required elements:**

(A) A description of the planning area. The LOP planning area shall include a sufficient amount of the landowner's forest land within the SOSEA to meet the goals and objectives of the plan.

(B) A description of the physical features in the planning area (e.g., geology, topography, etc.).

(C) The current habitat status. Suitable spotted owl habitat should be categorized and mapped as old forest, sub-mature, young forest marginal, or dispersal.

(D) The current species status. All status 1, 2, and 3 northern spotted owl site centers and the associated median home range circles that overlap any of the landowner's ownership within the LOP boundary must be mapped.

(E) Management proposals and relevant operations plans.

(F) Projected suitable habitat development.

(G) A plan for training.

(H) A monitoring program.

(I) Reporting standards.

(J) The conditions under which the LOP may be modified.

(K) The term of the LOP and conditions for termination. The term of the LOP shall be sufficient to meet its goals and objectives. The conditions of the LOP run with the land unless the LOP specifies alternative means to achieve the LOP goals and objectives upon mid-term sale or transfer. In addition to any other termination provisions in the LOP, plans may be terminated by mutual agreement of the landowner and the department.

(b) **Approval of LOPs.** Upon receipt of a landowner option plan, the department shall circulate the plan to the department of fish and wildlife, affected Indian tribes, local government entities, other forest landowners in the SOSEA, and the public for a thirty-day review and comment period. The department may extend this review period for up to thirty additional days. Within ninety days of receipt of the plan, the department shall review the comments and approve or disapprove the plan or submit the plan to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, shall approve the plan if:

(i) The plan contains all of the elements required under this section;

(ii) The plan is expected to be effective in meeting its goals and objectives;

(iii) The plan will not have a probable significant adverse impact on the ability of the SOSEA to meet its goals; and

(iv) The plan will not appreciably reduce the likelihood of the survival and recovery of the northern spotted owl in the wild.

In making its determination under this subsection, the department shall consider the direct, indirect, and cumulative effects of the plan; both the short-term and long-term effects of the plan; and whether local, state, or federal land management, regulatory, or nonregulatory requirements will mitigate identified significant adverse impacts. If the department does not approve the plan, or approves it over the objections of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(c) **Enforcement of LOPs.** The department shall review all applications and notifications from the landowner, proposed within the plan area, for consistency with the plan. Any applications or notifications found to be inconsistent with the plan shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the plan shall be classified as Class IV-Special.

(2) **Cooperative northern spotted owl habitat enhancement agreements.** A cooperative northern spotted owl habitat enhancement agreement (CHEA) is intended to provide flexibility for the landowner as well as an increase in the amount of available habitat for northern spotted owls over time. A CHEA is an agreement between the department and a landowner, developed in cooperation with the department of fish and wildlife, for the purpose of restoring, enhancing or maintaining northern spotted owl habitat. The agreement will only apply to forest land identified by the landowner, outside of the median home range circles of

northern spotted owl site centers in existence at the time of implementation.

(a) **Required elements of CHEAs.** The level of detail to be included in a CHEA will depend on the area of ownership involved, the time period for which the agreement will be in effect, and the complexity of the management strategy. Nevertheless, each agreement shall contain the elements set forth in this subsection.

(i) **Goals and objectives.** The specific goals and objectives for the landowner's contributions proposed under the CHEA shall be developed by the landowner and approved by the department in consultation with the department of fish and wildlife.

(ii) **Other required elements:**

(A) A description of the agreement area. The CHEA planning area shall include a sufficient amount of the landowner's forest land to meet the goals and objectives of the agreement.

(B) The current habitat status. Suitable spotted owl habitat should be categorized and mapped as old forest, sub-mature, young forest marginal, or dispersal.

(C) Management proposals. Management proposals may include, at the landowners discretion, proposed harvest dates or ages, silvicultural management plans, etc.

(D) Projected habitat development.

(E) The conditions under which the CHEA may be modified.

(F) The term of the CHEA and conditions for termination. CHEAs shall be effective for a duration mutually agreed to between the department and the landowner, but must be of sufficient duration to aid in the conservation of the northern spotted owl. CHEAs may be terminated by the landowner, in part or whole, prior to the time that the forest land is determined to be within the median home range circle surrounding a northern spotted owl site center. If forest land covered by the agreement is found to fall within a median home range circle surrounding a northern spotted owl site center, the agreement shall remain in effect on that forest land for its full term. If a CHEA is terminated, in part or in whole, all rights and relief from the rules shall also be terminated on those lands removed from the CHEA. In addition to any other termination provisions in the CHEA, agreements may be terminated by mutual agreement of the landowner and the department.

(G) Extensions. The term of a CHEA may be extended by the department based upon a written request from the landowner.

(b) **Approval of a CHEA.** Upon receipt of a CHEA, the department shall circulate the agreement to the department of fish and wildlife, affected Indian tribes, local government entities, other forest landowners in the SOSEA, and the public for review and comment. Within sixty days of receipt of the agreement, the department shall review the comments and approve or disapprove the agreement or submit the agreement to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, shall approve the agreement if:

(i) The agreement contains all of the elements required under this section;

(ii) The agreement is expected to be effective in meeting its goals and objectives;

(iii) The agreement will restore, enhance or maintain northern spotted owl habitat in a manner that provides potential benefit to northern spotted owls.

In making its determination under this subsection, the department shall consider the direct, indirect, and cumulative effects, and the short-term and long-term effects of the agreement. If the department does not approve the agreement, or approves it over the objections of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(c) **Enforcement of CHEAs.** The department shall review all applications and notifications from the landowner, proposed within the agreement area, for consistency with the agreement. Any applications or notifications found to be inconsistent with the agreement shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the agreement shall be classified based on the rules in effect at the time of application and without any of the benefits of the agreement.

AMENDATORY SECTION (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

WAC 222-24-030 Road construction. (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

***(2) Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

***(4) Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant

species, as listed in the board manual, to wetlands and wetland management zones.

***(5) Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

***(6) Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

***(10) Disturbance avoidance.** Road construction, operation of heavy equipment and blasting within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-050 Felling and bucking. ***(1) Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

***(2) Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

***(3) Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) Falling in selective and partial cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

***(5) Disturbance avoidance.** Felling and bucking within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-060 Cable yarding. ***(1) Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

***(2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

***(3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

*** (4) Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

***(c)** When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) Disturbance avoidance. The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

NEW SECTION

WAC 222-30-065 Helicopter yarding. Helicopter operations within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(1) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(2) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-070 Tractor and wheeled skidding systems. ***(1) Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall

only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

***(2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

***(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

***(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

***(5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

***(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

***(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

(10) Disturbance avoidance. The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-100 Slash disposal or prescribed burning. (1) **Slash disposal techniques:**

* (a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

* (c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

* (4) **Removing slash and debris** from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required.

See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

* (5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) Disturbance avoidance. Burning within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

Marbled Murrelet

Occupied Stand Approach

Proposed by the
Forest Practices Board - November 8, 1995

Supplemental Notice - April 11, 1996

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site

preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

• A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

• A nest is located; or

• Downy chicks or eggs or egg shells are found; or

• Marbled murrelets are detected flying below, through, into or out of the forest canopy; or

• Birds calling from a stationary location within the area;

or

• Birds circling above the canopy; or

• A contiguous forested area which is not suitable marbled murrelet habitat in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

The outer perimeter of the occupied site shall be presumed to be the beginning of any gap greater than three hundred feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat." For sites defined in the above paragraph, it shall be the beginning of any gap greater than three hundred feet wide where one or more of the distinguishing vegetative characteristics important to murrelets is lacking.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of

riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Suitable marbled murrelet habitat" means:

• A contiguous forested area with all of the following characteristics:

• Within forty miles of marine waters;

• Containing at least eight trees per acre equal to or greater than 32 inches dbh;

• At least forty percent of the trees equal to or greater than thirty-two inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and

• Containing at least two nesting platforms per acre.

Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and fifty feet or more in height above the ground.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iii) Use of aircraft below one thousand three hundred feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(iv) Harvesting within a three hundred foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of seventy-five trees per acre greater than 6 inches dbh; provided that twenty-five of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of two hundred feet and extended to maximum of four hundred feet as long as an average of three hundred feet is maintained.

(v) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vi) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below one thousand three hundred feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Marbled murrelet critical wildlife habitat (state) shall not include habitat where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare

and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

Marbled Murrelet**Watershed Administrative Unit Approach**

**Proposed by the
Forest Practices Board - November 8, 1995**

Supplemental Notice - April 11, 1996

Reviser's note: The spelling error in the above material 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 94-17-033, filed 8/10/94, effective 8/13/94)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being

actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet - watershed administrative units (MM-WAU)" means those watershed administrative units containing an occupied marbled murrelet site or in which a marbled murrelet has been detected and documented by the department of fish and wildlife.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means a stand of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

- Stands where a nest is located; or
- Stands where downy chicks or eggs or egg shells are found; or
- Stands where marbled murrelets are detected flying below, through, into or out of the forest canopy within or adjacent to a stand; or
- Birds calling from a stationary location within the stand; or
- Birds circling above the canopy.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and
Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Suitable marbled murrelet habitat" means:

• Timber stands with all of the following characteristics:

· Within forty miles of marine waters;

· Containing at least eight trees per acre equal to or greater than 32 inches dbh;

· At least forty percent of the trees equal to or greater than thirty-two inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and

· Containing at least two nesting platforms per acre.

Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and 50 feet or more in height above the ground;

· At least (5) (10) (25) acres in size; or

· Any stand identified as an occupied marbled murrelet site documented by the department of fish and wildlife.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

"**Western Washington**" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of

suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date the forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

- Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.
- Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.
- Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction in suitable marbled murrelet habitat within a MM-WAU, provided that, marbled murrelet critical wildlife habitat (state) shall not include suitable marbled murrelet habitat within a MM-WAU where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(iii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iv) Use of aircraft below one thousand three hundred feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(v) Harvesting within a three hundred foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of seventy-five trees per acre greater than 6 inches dbh; provided that twenty-five of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design

of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of two hundred feet and extended to maximum of four hundred feet as long as an average of three hundred feet is maintained.

(vi) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below one thousand three hundred feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from

Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

WSR 96-09-101
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed April 17, 1996, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 94-23-143 on November 23, 1994; and WSR 96-05-075 on February 21, 1996.

Title of Rule: Logging.

Purpose: Chapter 296-45 WAC, Safety standards for electrical workers, federal-initiated proposed amendments, as published in Federal Register Volume 59, Number 20, dated January 31, 1994; Federal Register Volume 59, Number 196, dated October 12, 1994; and Federal Register Volume 60, Number 174, dated September 8, 1995, are made to be at-least-as-effective-as the federal standard. These federal-initiated amendments will not establish additional compliance requirements. The proposed amendments are made to add

a new section relating to hand tool requirements. The proposed text in this section is identical to the federal language. However, the requirements are not new and are currently applicable.

Chapter 296-54 WAC, Safety standards for logging, federal-initiated proposed amendments, as published in Federal Register Volume 59, Number 196, dated October 12, 1994; and Federal Register Volume 60, Number 174, dated September 8, 1995.

Proposed amendments that establish additional compliance requirements are federally mandated amendments the department is required to adopt to comply with chapter 49.17 RCW, Washington Industrial Safety and Health Act (WISHA), and to meet our obligations to the Occupational Safety and Health Administration (OSHA). This state plan agreement with OSHA requires the department adopt standards identical to or at-least-as-effective-as the federal regulations.

The majority of the proposed amendments are made to replace existing wording in the current logging standard with federal identical wording. While the department is proposing to adopt federal language, this proposal does not change the overall requirements of the existing standard, but does propose to adopt minimum federal specification requirements.

Many of these changes are also being proposed to meet department obligations under Washington state SHB 1010, which addresses regulatory reform amendments as passed by the 1995 legislature. These types of proposed changes include reducing duplicate or redundant language within the standard by consolidating information in one place, to replace existing "at-least-as-effective-as" language with federal "identical" language, and to make the standard easier to read wherever possible.

FEDERAL IDENTICAL PROPOSED AMENDMENTS: These proposed amendments will not establish additional compliance requirements, but may establish minimum federal specification requirements.

WAC 296-54-45001 Pulpwood logging, this section is proposed to be repealed as the federal standard does not have a separate standard for pulpwood logging. Pulpwood logging is proposed to be consolidated and included in the "logging" standard.

WAC 296-54-501 Scope and application, proposed amendments are made to replace the first sentence with federal identical language.

WAC 296-54-505 Definitions, proposed amendments are made:

- to add the following definitions: Backcut, butt, cable yarding, chock, deck, designated person, domino felling, fell, feller, health care provider; guarded, limbing, logging operations, machine, rated capacity, root wad, serviceable condition, slope, spring pole, tie down, undercut, and winching.
- to add the word "nylon" to clarify the type of fabric indicated in the definition of "Ballistic nylon."
- to add the phrase "hung tree" after the phrase "lodged tree" in order to define both phrases since they have the same meaning.

WAC 296-54-507 Management's responsibility, proposed amendments are made to replace the existing hazardous weather rule with the federal environmental conditions requirement. This rule identifies the types of environmental conditions that would require employees to move to a place of safety when a hazard exists.

WAC 296-54-511 Personal protective equipment, proposed amendments are made:

- to replace the existing personal protective equipment (PPE) inspection and maintenance language with federal language. (The proposed rule allows inspection of PPE to be delegated to the PPE user.)
- to add the requirements that eye and face PPE be provided to employees at no cost by referencing chapter 296-24 WAC, Part A-2.
- to replace the existing leg protection language with federal language. (The proposed rule will exempt a climber from leg protection requirements if it can be shown a greater hazard exists by wearing them.)

WAC 296-54-513 Safety education, training and first-aid requirements, proposed amendments are made:

- to add specific criteria for the frequency of employee training.
- to add specific criteria for the minimum content of employee training and retraining.
- to require all training be conducted by a designated person.
- to require all training and materials be presented in a manner that employees are able to understand.
- to require documented certification of training.
- to require first-aid kits at each active work site. First-aid kits must reflect the size of the crew and the degree of isolation and the hazards reasonably anticipated at the work site.
- to require first-aid kits be maintained in serviceable condition.
- to indicate that first-aid kits may be reviewed annually by a health care provider.

WAC 296-54-515 General requirements, proposed amendments are made:

- to replace existing storage, handling, and transportation of fuel requirement language with the federal language.
- to allow the use of flammable or combustibles to start a fire if it does not create a hazard for an employee.
- to replace existing two tree length or more work area spacing requirements language with the federal language.
- to add federal language relating to vehicle load restriction requirements when transporting a machine.
- to add federal language relating to requirements for loading, unloading and securement of machines to prevent hazards to employees.
- to add federal language relating to hand and portable powered tool requirements.

WAC 296-54-519 Transportation of crews by motor vehicle, proposed amendments are made to replace existing seat anchoring requirement language with the federal language.

WAC 296-54-529 Falling and bucking—General, proposed amendments are made:

- to replace existing two tree length acknowledgment requirement language with the federal language.
- to add federal language relating to the diagonal retreat path requirement.
- to replace existing snag assessment (in the area of a proposed cut) requirements with the federal language.
- to replace existing weather conditions evaluation requirements with the federal language.
- to replace existing falling requirements (prohibiting operation of yarding machines within two tree lengths of manual falling operations) with the federal language.
- to add federal language that a backcut is required for each tree being fell.
- to add federal language relating to body location and stability requirements when operating a chain saw.
- to add federal language prohibiting domino felling of trees.

WAC 296-54-537 Mechanized falling, proposed amendments are made to add federal language prohibiting an employee approach to a mechanical felling machine closer than two tree lengths without receiving acknowledgment from the operator that it is safe to approach.

WAC 296-54-551 Yarding, loading and skidding machines—General requirements, proposed amendments are made:

- to add federal language relating to logging machine maintenance and inspection (including any machine provided by an employee).
- to add federal language that logging machines be operated only from the operator's station or where recommended by the manufacturer.
- to add federal language that prohibits employees riding any load.
- to add federal language relating to overhead cab coverings.
- to add federal machine access language to the access and egress requirements.
- to add federal language that each muffler provided by the manufacturer or an equivalent will be in place when machines are in use.
- to add federal language that operators station protection and visibility requirements be maintained when using transparent materials.
- to add federal language relating to ROPS/FOPS (placed into initial service February 9, 1995) requirements.
- to add federal language relating to overhead guards on each forklift.
- to add federal language relating to chipper guarding requirements.

WAC 296-54-555 Yarding—General requirements, proposed amendments are made to add federal language that yarded trees/logs be placed in an orderly manner.

WAC 296-54-557 Yarding tractors and skidders, proposed amendments are made:

- to add federal language that logging machines be operated at distances from other machines or persons so that a hazard will not be created by the movements of the machine.

- to add federal language prohibiting riding on machines with out the proper seats/belts.
- to add federal language requiring that prior to service or repair of machines, pressure or energy that could activate moving parts be discharged.
- to replace existing winching angle requirements with federal language.
- to replace existing brake requirements with federal language.
- to add federal language that pallet trailers or other carriers not exceed load capacities.
- to add federal language that towed equipment be capable of performing a 90 degree turn and over running of the towing machine or vehicle be prevented.
- to add federal language that safe clearance be maintained from all obstructions when operating mobile logging machines.

WAC 296-54-561 Log loading—General requirements, proposed amendments are made:

- to replace existing transport vehicle positioning language with federal language.
- to add federal language that restricts loading and unloading areas to only those personnel the employer demonstrates are essential for the work.

WAC 296-54-575 Motor truck log transportation—Stakes, stake extensions and chock blocks, proposed amendments are made to add federal language that stake and chock trips be activated from the opposite side the load will dump from.

WAC 296-54-577 Motor truck log transportation—Wrappers and binders, proposed amendments are made to add federal language relating to tie-down requirements.

WAC 296-54-593 Dry land sorting and storage, proposed amendments are made to add federal language that log deck construction be stable and allow safe working room around the deck.

The following proposed amendments are made to be AT-LEAST-AS-EFFECTIVE-AS the federal standard. These amendments will establish additional compliance requirements

WAC 296-54-511 Personal protective equipment, proposed amendments are made:

- to add federal language that head protection will be provided to employees at no cost.
- to add federal language requiring cut resistant boots when operating a chain saw.
- to add federal language that gloves be provided at no cost when employees handle wire rope or other rough materials.

WAC 296-54-515 General requirements, proposed amendments are made to add federal language that engine noise, such as from a chain saw, is not an acceptable means of signaling.

WAC 296-54-531 Falling and bucking—Power saws and power equipment, proposed amendments are made:

- to add federal language that all chain saws put into initial service after February 9, 1995, be equipped with a chain brake.
- to add federal language that chain saws manufactured without chain brakes and placed into initial

service before February 9, 1995, be equipped with reduced kickback chain, reduced kickback designed bar, bar nose/tip guard, or a combination of these devices.

- to add federal language that chain saws be started with the chain brake engaged.

WAC 296-54-551 Yarding loading and skidding machines—General requirements, proposed amendments are made:

- to add federal language that all mobile logging machines placed into initial service after February 9, 1995, will be equipped with ROPS/FOPS.
- to add federal language for deflection requirements for vehicles placed into initial service after February 9, 1995.

WAC 296-54-567 Motor truck log transportation—General requirements, proposed amendments are made to add federal language that requires tie down tightening requirements during transport of loads.

The following proposed amendments are made to be AT-LEAST-AS-EFFECTIVE-AS the federal standard. These amendments will not establish additional compliance requirements, but may establish minimum federal specification requirements.

WAC 296-54-45001 Pulpwood logging, proposed amendments are made to delete WAC 296-54-45001 due to the federal amendment of the rule title from "pulpwood logging" to "logging."

WAC 296-54-505 Definitions applicable to this chapter, proposed amendments are made:

- to add the definition of "buck" from the pulpwood section.
- to add the following federal definitions: Debark, grounded, and limbing.
- to include the federal term "log" in the definition of "logs" in order to define both words.
- to add the federal definition of "vehicle" (the existing words "crew bus" were retained and included in order to define both terms since they have the same meaning).

WAC 296-54-513 Safety education, training and first-aid requirements, proposed amendments are made to add reference to WAC 296-24-060 (3)(e) A-1. (WAC 296-24-060 (3)(e) A-1 reflects the specific areas first-aid and CPR training must cover.)

WAC 296-54-515 General requirements, proposed amendments are made:

- to add federal language relating to fueling equipment.
- to add federal language relating to inspection, maintenance, and repair of vehicles.
- to replace existing fire extinguisher maintenance requirement language with federal language.
- to add federal language that engine noise is not acceptable as a means of signaling.
- to add federal language relating to logging operations near overhead electric lines.
- to add federal explosives and blasting reference.
- to add federal language relating to seat belt requirements.

WAC 296-54-519 Transportation of crews by motor vehicle, proposed amendments are made:

- to add federal language relating to seat belt requirements.
- to add federal access and egress requirements.
- to add federal language that an operator must have a license for the class of motor vehicle being operated.

WAC 296-54-529 Falling and bucking—General, proposed amendments are made to add federal language relating to backcut requirements.

WAC 296-54-531 Falling and bucking—Power saws and power equipment, proposed amendments are made:

- to add federal language on chain saw operation and adjustments.
- to add federal language relating to starting a chain saw with the chain brake on.

WAC 296-54-551 Yarding loading and skidding machines—General requirements, proposed amendments are made:

- to add federal language relating to maintenance of machines provided by an employee.
- to add federal language relating to machine guarding.
- to add federal language relating to machine stability.
- to add federal language that ground based logging machines placed into initial service after February 9, 1995, be equipped with ROPS/FOPS.
- to replace existing cab requirement language with federal language relating to transparent materials.

WAC 296-54-555 Yarding—General requirements, proposed amendments are made to add federal language relating to the safe placement of yarded trees.

WAC 296-54-577 Motor truck log transportation—Wrappers and binders, proposed amendments are made to add federal language relating to tie-down requirements.

The following proposed STATE-INITIATED amendments will not establish additional compliance requirements:

WAC 296-54-501 Scope and application, proposed amendments are made:

- to delete repetitive and outdated language.
- to correct the references relating to the department.

WAC 296-54-505 Definitions applicable to this chapter, proposed amendments are made:

- to delete numbering of definitions in accordance with code reviser guidelines.
- to delete the following definitions which have no corresponding text within the logging standard: Alternate communication system, A side, bull buck, cable tree thinning, chunking, cold deck, directional falling, hot deck, kerf, log bronco, mainline block, mainline train, rub tree, shore skids, snorkel, spike, strap socket or D, swamping, swifter, tug, V lead, and waistline.
- to combine the following definitions that have same meaning or reflect like information: Crew bus and vehicle, donkey and yarder, and spar and spar tree.
- Debark: To include a clarification of manual and mechanical debarking.

- Grounded: To include clarification of grounding trees and electrical and/or static grounding.
- Head tree: To delete the word "tree" in the reference.
- Limbing: To add the words "or standing tree" to the proposed federal definition of "limbing" to address the same process on a standing tree.
- Mobile log loader: To delete the boom types in the definition.
- Mobile yarder: To delete cable system designations.
- SAE: To delete this definition as it is defined in the text where it is used.
- Topping: To delete the phrase "prior to rigging the tree for a spar or tail tree."

WAC 296-54-513 Safety education, training and first-aid requirements, proposed amendments to this section are made to include requirements from chapter 296-24 WAC, General safety and health standards, which are currently applicable to the logging standard. Proposed amendments are made to add safety and health requirement language related to safety meetings, accident investigations, evaluation of accident and illness program, first-aid kits, and documentation of meeting attendance. In addition, two informational notes are being added. One note clarifies the application of first-aid training requirements for personnel at sorting yards. The other note clarifies the requirements for first-aid kits at sorting yards.

WAC 296-54-515 General requirements, proposed amendments are made:

- to add an informational note relating to lock out tag out.
- to reword the exception language related to the fueling of running helicopters.
- to add road and trail maintenance language previously found in the pulpwood logging section.
- to reword the signaling and signal reference.

WAC 296-54-519 Transportation of crews by motor vehicles, proposed amendments are made:

- to change the section title from "Transportation of crews by motor vehicles" to "Motor vehicles."
- to delete the existing explosives as a result of the proposed adoption of the federal explosive rule.

WAC 296-54-521 Transportation of crews by use of speeders and trailers, proposed amendments are made to correct references to specific gender.

WAC 296-54-523 Methods of crew transportation other than those specified, proposed amendments are made to correct references relating to the department.

WAC 296-54-529 Falling and bucking—General, proposed amendments are made:

- to change the word "snag" to "danger tree."
- to correct WAC references related to work areas and accounting of work crews.
- to delete falling requirements around electrical lines due to the proposed adoption of new federal electrical requirements.
- to add a subsection entitled "backcuts."
- to correct references to specific gender.

WAC 296-54-531 Falling and bucking—Power saws and power equipment, proposed amendments are made:

- to add a meter equivalent measurement reference to the existing United States measurement for outdoor chain saw fueling.
- to change the section title from "Falling and bucking—Power saws and power equipment" to "Power saws and power equipment."
- to correct the WAC reference for reserve fuel handling and storage.

WAC 296-54-535 Tree pulling, proposed amendments are made to correct an error in the text related to tree pulling.

WAC 296-54-539 Climbing equipment and passline, proposed amendments are made to correct references to specific gender.

WAC 296-54-551 Yarding loading and skidding machines—General requirements, proposed amendments are made:

- to change the section title from "Yarding, loading and skidding machines—General requirements" to "Yarding, loading, skidding, and chipping machines—General requirements."
- to delete repetitive barrier construction requirements for over head protection on machines.
- to relocate existing pinch point requirements for rotating superstructures to the appropriate subsection within this section.
- to add a meter equivalent measurement reference to the existing United States measurement for cab height.
- to add subsection titles.
- to correct numbering errors.

WAC 296-54-553 Yarding loading and skidding machines—Mobile towers and boom-type yarding and loading machines, proposed amendments are made to add subsection titles.

WAC 296-54-557 Yarding tractors and skidders, proposed amendments are made:

- to change the section title from "Yarding tractors and skidders" to "Yarding—Tractors, skidders, and rough terrain log loaders (to include feller bunchers and tree shears)."
- to delete seat belt requirement text as a result of the proposed adoption of the federal seat belt requirements in WAC 296-54-515.
- to delete the exemption for wearing a seat belt as a result of the proposed adoption of the federal seat belt requirements located in WAC 296-54-515.

WAC 296-54-559 Yarding—Helicopters and helicopter cranes, proposed amendments are made to correct references to specific gender.

WAC 296-54-567 Motor truck log transportation—General requirements, proposed amendments are made to correct references to specific gender.

WAC 296-54-577 Motor truck log transportation—Wrappers and binders, proposed amendments are made to add the word "wrapper" in the federal tie-down language.

WAC 296-54-593 Dry land sorting and storage, proposed amendments are made to correct references to specific gender.

WAC 296-54-595 Railroad operations, proposed amendments are made to correct references to specific gender.

WAC 296-54-597 Railroad maintenance—Loading or unloading, proposed amendments are made to correct references to specific gender.

WAC 296-54-601 Signals and signal systems, proposed amendments are made:

- to correct references to specific gender.
- to correct a department address, phone number, and name.

WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or equipment, proposed amendments are made to correct references relating to the department.

NO AMENDMENTS ARE BEING PROPOSED TO THE
FOLLOWING SECTIONS

WAC 296-54-503 Variance, 296-54-509 Employees responsibility, 296-54-517 Camps, 296-54-525 Railroad construction and maintenance, 296-54-527 Truck roads, 296-54-533 Falling and bucking—Springboards and tree jacking, 296-54-541 Selection of spar, tail and intermediate trees, 296-54-543 General requirements, 296-54-545 Rigging—Wood spar trees, 296-54-547 Rigging—Tail trees, 296-54-549 Lines, straps and guyline attachments—Steel spars, 296-54-563 Log loading—Special requirements, 296-54-569 Motor truck log transportation—Brake requirements, 296-54-571 Motor truck log transportation—Trailer hitches and safety chains, 296-54-573 Motor truck log transportation—Reaches and bunks, 296-54-579 Motor truck log transportation—Miscellaneous requirements, 296-54-581 Motor truck log transportation—Steered trailers, 296-54-583 Stationary log truck trailer loading, 296-54-585 Log unloading, booms and rafting grounds—Storage and sorting areas—General requirements, 296-54-587 Water dumps, 296-54-589 Boom and rafting grounds, 296-54-591 Boats and mechanical devices on waters, 296-54-599 Truck and equipment maintenance shops, 296-54-603 Electric signal systems, 296-54-607 Radio signal systems—Specifications and test procedures, and 296-54-9902 Appendix I.

Statutory Authority for Adoption: Chapter 49.17 RCW.

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

Summary: See Purpose above.

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

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

Rule is necessary because of federal law, Federal Register Volume 59, Number 20, dated January 31, 1994; Federal Register Volume 59, Number 196, dated October 12, 1994; and Federal Register Volume 60, Number 174, dated September 8, 1995.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not necessary when rules are proposed for adoption solely for the purpose of conforming and complying with federal regulations. (RCW 19.85.061)

The department is proposing to amend chapter 296-45 WAC, Safety standards—Electrical workers; and chapter 296-54 WAC, Safety standards—Logging operations, to comply with federal standards contained in the following federal registers: Federal Register Volume 59, Number 20, dated January 31, 1994; Federal Register Volume 59, Number 196, dated October 12, 1994; and Federal Register Volume 60, Number 174, dated September 8, 1995.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii) and (iv). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on June 4, 1996, at 1:00 p.m.; and at the Spokane County Public Works Building, County Commissioners Assembly Room (lower level), 1026 West Broadway, Spokane, WA, on June 6, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by May 20, 1996, (360) 902-5516.

Submit Written Comments to: Department of Labor and Industries, Consultation and Compliance Services Division, Frank Leuck, Assistant Director, P.O. Box 44620, Olympia, WA 98507-4620, by no later than 5:00 p.m., June 13, 1996. In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: August 20, 1996.

April 17, 1996
Mark O. Brown
Director

NEW SECTION

WAC 296-45-60013 Hand and portable powered tools. (1) General requirements.

(a) The employer shall assure that each hand and portable powered tool, including any tool provided by an employee, is maintained in serviceable condition.

(b) The employer shall assure that each tool, including any tool provided by an employee, is inspected before initial use during each workshift. At a minimum, the inspection shall include the following:

(i) Handles and guards, to assure that they are sound; tight-fitting, properly shaped, free of splinters and sharp edges, and in place;

(ii) Controls, to assure proper function;

(iii) Chain-saw chains, to assure proper adjustment;

(iv) Chain-saw mufflers, to assure that they are operational and in place;

(v) Chain brakes and nose shielding devices, to assure that they are in place and function properly;

(vi) Heads of shock, impact-driven and driving tools, to assure that there is no mushrooming;

(vii) Cutting edges, to assure that they are sharp and properly shaped; and

(viii) All other safety devices, to assure that they are in place and function properly.

(c) The employer shall assure that each tool is used only for purposes for which it has been designed.

(d) When the head of any shock, impact-driven or driving tool begins to chip, it shall be repaired or removed from service.

(e) The cutting edge of each tool shall be sharpened in accordance with manufacturer's specifications whenever it becomes dull during the workshift.

(f) Each tool shall be stored in the provided location when not being used at a work site.

(g) Racks, boxes, holsters or other means shall be provided, arranged and used for the transportation of tools so that a hazard is not created for any vehicle operator or passenger.

(2) Gasoline engine power chain saws.

(a) Each chain saw placed into initial service after February 9, 1995, shall be equipped with a chain brake and shall otherwise meet the requirements of the ANSI B175.1-1991 "Safety Requirements for Gasoline-Powered Chain Saws." Each chain saw placed into service before February 9, 1995, shall be equipped with a protective device that minimizes chain saw kickback i.e., reduced kickback bar, chains, bar tip guard or chain brake. No chain saw kickback device shall be removed or otherwise disabled.

(b) The chain saw shall be operated and adjusted in accordance with the manufacturer's instructions.

(c) The chain saw shall be fueled at least 10 feet (3 m) from any open flame or other source of ignition.

(d) The chain saw shall be started at least 10 feet (3 m) from the fueling area.

(e) The chain saw shall be started on the ground or where otherwise firmly supported. Drop-starting a chain saw is prohibited.

(f) The chain saw shall be started with the chain brake engaged.

(g) The chain saw shall be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.

(h) The chain saw operator shall be certain of footing before starting to cut. The chain saw shall not be used in a position or at a distance that could cause the operator to become off-balance, to have insecure footing, or to relinquish a firm grip on the saw.

(i) Prior to felling any tree, the chain saw operator shall clear away brush or other potential obstacles which might interfere with cutting the tree or using the retreat path.

(j) The chain saw shall not be used to cut directly overhead.

(k) The chain saw shall be carried in a manner that will prevent operator contact with the cutting chain and muffler.

(l) The chain saw shall be shut off or the throttle released before the feller starts their retreat.

(m) The chain saw shall be shut down or the chain brake shall be engaged whenever a saw is carried further than 50 feet (15.2 m). The chain saw shall be shut down or the chain brake shall be engaged when a saw is carried less than 50 feet if conditions such as, but not limited to, the

terrain, underbrush and slippery surfaces, may create a hazard for an employee.

(n) Each power saw weighing more than 15 pounds (6.8 kilograms, service weight) that is used in trees shall be supported by a separate line, except when work is performed from an aerial lift and except during topping or removing operations where no supporting limb will be available, and the following:

(i) Each power saw shall be equipped with a control that will return the saw to idling speed when released;

(ii) Each power saw shall be equipped with a clutch and shall be so adjusted that the clutch will not engage the chain drive at idling speed;

(iii) A power saw shall be started on the ground or where it is otherwise firmly supported. Drop starting of saws over 15 pounds (6.8 kg) is permitted outside of the bucket of an aerial lift only if the area below the lift is clear of personnel;

(iv) A power saw engine may be started and operated only when all employees other than the operator are clear of the saw;

(v) A power saw may not be running when the saw is being carried up into a tree by an employee; and

(vi) Power saw engines shall be stopped for all cleaning, refueling, adjustments, and repairs to the saw or motor, except as the manufacturer's servicing procedures require otherwise.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-54-501 Scope and application. ~~((The requirements of this chapter augment those requirements of the general safety standards promulgated by the department of labor and industries, division of industrial safety and health, applicable to this industry, and apply to all persons, firms, corporations or others engaged in logging operations that come within the jurisdiction of the department of labor and industries.))~~ This standard establishes safety practices, means, methods and operations for all types of logging, regardless of the end use of the wood. These types of activities include, but are not limited to, pulpwood and timber harvesting and the logging of sawlogs, veneer bolts, poles, pilings and other forest products. The requirements herein contained do not apply to log handling at sawmills, plywood mills, pulp mills or other manufacturing operations governed by their own specific safety standards.

~~((The safety requirements herein contained are not to be construed to imply that other safe work practices, procedures or methods should not be employed where such methods, means or practices may be required to prevent accidents. Both employers and employees have a duty to do whatever is reasonable and practical to avoid causing accidents.))~~ These requirements are minimum safety requirements and shall augment other safety standards developed by the department which are of a general nature and apply to all industrial operations such as those contained in the general safety standards, chapter 296-24 WAC; occupational health standards, chapter 296-62 WAC; ~~((and precautionary labeling of containers of hazardous materials, chapter 296-64 WAC.))~~ or others which may be applicable. Regulations adopted by the department concerning certain types of equipment or

conditions, such as metal and nonmetallic mines, quarries, pits and crushing operations, chapter 296-61 WAC, and possession, handling and use of explosives, chapter 296-52 WAC shall be complied with when applicable.

~~((Some of the factors involving safe practices are use of good judgment, and the avoidance of taking chances. Accidents can be avoided in many instances by everyone conscientiously applying their knowledge of safety.))~~

Copies of all society of automotive engineers reports (SAE) referred to in these standards are on file in all ~~((district))~~ regional offices of the ~~((division of industrial safety and health of the))~~ department of labor and industries, and may be reviewed by any interested person. Individuals desiring to obtain copies of such material shall arrange to do so directly from the publishers or from other sources. The ~~((division of industrial safety and health))~~ department of labor and industries will not assume the responsibility of acquiring such material for uses other than its own needs.

~~((Note: Safety standards for pulpwood logging are contained in a separate edition titled "Safety standards for pulpwood logging," WAC 296-54-45001.))~~

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-54-505 Definitions applicable to this chapter. ~~((1))~~ A-frame - a structure made of two independent columns fastened together at the top and separated by a reasonable width at the bottom to stabilize the unit from tipping sideways.

~~((2)) Alternate communication system - a system approved by the department of labor and industries, which by voice or other media than horn or whistle, provides a safe and reliable method of communication between crew members.~~

~~(3) A side - any place of activity involving a group in the yarding and loading of logs.~~

~~(4)) An operation - any place where logging or log related activities are taking place.~~

~~((5)) Approved - approved by the department of labor and industries((, division of industrial safety and health)).~~

~~((6)) Arch - any device attached to the back of a vehicle and used for raising one end of logs to facilitate movement.~~

~~((7)) Authorized person - a person approved or assigned by the employer to perform a specific type of duty(s) or to be at a specific location at a certain time(s).~~

~~((8)) Back line - that section of the haulback that runs between the spar tree and the corner block.~~

~~(9)) Backcut (felling cut) - the cut in a felling operation made on the opposite side from the undercut.~~

Ballistic nylon - a nylon fabric of high tensile properties designed to provide protection from lacerations.

~~((10)) Barrier - a fence, wall or railing to prevent passage or approach.~~

~~((11)) Base of tree - that portion of a natural tree not more than three feet above ground level.~~

~~((12)) Bight of the line - any area where a person is exposed to a controlled or uncontrolled moving line.~~

~~((13)) Binder - a hinged lever assembly for connecting the ends of a wrapper to tighten the wrapper around the load of logs or materials.~~

~~((14)) Boomboat - any boat used to push or pull logs, booms, bundles, or bags, in booming ground operations.~~

~~((15)) Boomscooter - a small boat, usually less than fourteen feet in length, equipped with an outboard motor, having directional pushing capabilities of 360 degrees.~~

~~((16)) Brailing - when tiers of logs, poles, or piles are fastened together with a type of dogline and the ends of the side members are then fastened together for towing.~~

~~((17)) Brow log - a log or a suitable substitute placed parallel to any roadway at a landing or dump to protect the carrier and facilitate the safe loading or unloading of logs, timber products, or materials.~~

~~((18) Bullbuck - the supervisor of the cutting crew.~~

~~((19)) Buck - means the process of severing a tree into sections (logs or bolts).~~

Butt - the bottom of the felled part of a tree.

Butt welding - the practice of welding something end to end.

~~((20) Cable tree thinning - the selective thinning of a timber stand utilizing mobile yarding equipment specifically designed or adapted for the purpose. Such systems may be of the skyline, slackline, or modified slackline, overhead cable system.~~

~~((21)) Cable yarding - the movement of felled trees or logs from the area where they are felled to the landing on a system composed of a cable suspended from spars and/or towers. The trees or logs may be either dragged across the ground on the cable or carried while suspended from the cable.~~

Chock - a block, often wedge shaped, which is used to prevent movement; e.g., a log from rolling, a wheel from turning.

Choker - a length of wire rope with attachments for encircling the end of a log to be yarded.

~~((22) Chunking - the clearing of nonusable material from a specified area.~~

~~((23) Cold deck - any pile of logs which is yarded and left for future removal.~~

~~((24)) Competent person - one who is capable of identifying hazards in the surrounding or working conditions which are unsanitary, hazardous or dangerous.~~

~~((25)) Corner block - the first block the haulback passes through on its way to the tail block.~~

~~((26) Crew bus or vehicle - any vehicle furnished by or for the employer that will transport five or more persons.~~

~~((27)) Crotch line - two short lines attached to the same ring or shackle, used for loading or unloading.~~

~~((28)) Danger trees - any tree of any height, dead or alive, that presents a hazard to workers because of rot, root, stem or limb damage, lean, or any other observable condition created by natural process or man-made activity.~~

~~((29) Directional falling - a mechanical means to control the direction of falling timber.~~

~~((30)) Debark - to remove bark from trees or logs. Debark generally denotes mechanical means as opposed to manual peeling.~~

Deck - a stack of trees or logs.

Designated person - an employee who has the requisite knowledge, training, and experience to perform specific duties.

Dog line - type of line used to fasten logs or timber products together by the use of dogs.

~~((31) Donkey - any machine with a series of drums used to yard logs.~~

~~((32)) Domino felling - the partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.~~

Double ended logs - two logs end to end on the same lay.

~~((33)) Droplines - a short line attached to the carriage or carriage block which is used as an extension to the main line.~~

~~((34)) Drum - a mechanical device on which line is spooled or unspooled.~~

~~((35)) Dry land storage - decks of logs stored for future removal or use.~~

~~((36)) Dutchman -~~

~~((a)) A block used to change direction of line lead.~~

~~((b)) A method of falling timber consisting of inserting a piece of material into one side of the undercut to assist in pulling a tree against the lean or a section of the undercut can be left in a corner to accomplish the same purpose.~~

~~((37)) Experienced person - a person who has been trained and has participated in the subject process for a period of time long enough to thoroughly acquaint the person with all facets of the process.~~

~~((38)) F.O.P.S. - falling object protective structure.~~

~~((39)) Fair lead - sheaves, rolls, or a combination thereof arranged to receive a line coming from any direction for proper line spooling on to a drum.~~

~~((40)) Fell (fall) - to cut down trees.~~

Feller (faller) - an employee who fells trees.

Front end loader - a mobile machine mounted on a wheeled or tracked chassis, equipped with a grapple, tusk, bucket, or fork-lift device, and employed in the loading, unloading, stacking, or sorting of logs or materials.

~~((41)) Grounded - the placement of a component of a machine on the ground or on a device where it is firmly supported. Grounded may also relate to the placement of a tree on the ground or a method to dissipate static or electrical charges.~~

Guarded - covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, casings, shields, troughs, railings, screens, mats, or platforms, or by location, to prevent injury.

Guard rail - a railing to restrain a person.

~~((42)) Guyline - a line used to support or stabilize a spar.~~

~~((43)) Gypsy drum - a mechanical device wherein the line is not attached to the drum and is manually spooled to control the line movement on and off the drum.~~

~~((44)) Haulback - a line used to pull the buttrigging and mainline to the logs to be yarded.~~

~~((45)) Haulback block - any block the haulback line passes through including the corner block and tailblock.~~

~~((46)) Hay rack -~~

~~((a)) A type of loading boom where two tongs are used and logs are suspended.~~

~~((b)) A transporting vehicle with multiple sets of bunks attached to a rigid frame usually used for hauling logs.~~

~~((47)) Hazardous falling area - the area within a circle centered on the tree being felled and having a radius not less than twice the height of that tree.~~

~~((48))~~ Head tree - the tree where yarding and/or loading takes place. (See spar ~~((tree))~~)

~~((49))~~ Health care provider - a health care practitioner operating with the scope of his/her license, certificate, registration or legally authorized practice.

Heel boom - a type of loading boom where one tong is used and one end of the log is pulled up against the boom.

~~((50))~~ High lead - a system of logging wherein the main line is threaded through the main line block, which is attached near the top of the spar, to obtain a lift of the logs being yarded.

~~((51))~~ Hobo log and/or hitchhiker - a free or unattached log that is picked up by a turn and is transported with the turn.

~~((52))~~ Hooktender - the worker that supervises the method of moving the logs from the woods to the landing.

~~((53))~~ ~~Hot deck - a landing where logs are being moved.~~

~~((54))~~ Hydraulic jack - a mechanical device, powered by internal pressure, used to control the direction in which a tree is to be felled.

~~((55))~~ In the clear - being in a position where the possibility of harmful physical contact is minimized.

~~((56))~~ Jackstrawed - trees or logs piled in an unordered manner.

~~((57))~~ Jaggers - any projecting broken wire in a strand of cable.

~~((58))~~ ~~Kerf - that portion of timber products taken out by the saw teeth.~~

~~((59))~~ Knob - a metal ferrule attached to the end of a line.

~~((60))~~ Landing - any place where logs are laid after being yarded, ~~((awaiting subsequent handling, loading, and hauling))~~ and before transport from the work site.

~~((61))~~ Lift tree - an intermediate support for skylines.

~~((62))~~ Limbing - to cut branches off felled or standing trees.

Loading boom - any structure projecting from a pivot point to guide a log when lifted.

~~((63))~~ Lodged tree (hung tree) - a tree leaning against another tree or object which prevents it from falling to the ground.

~~((64))~~ ~~Log broneo - a sturdily built boat usually from twelve to twenty feet in length, used to push logs or bundles of logs in a generally forward direction in booming and rafting operations.~~

~~((65))~~ Logging operations - operations associated with felling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel from one site to another.

Log dump - a place where logs are removed from transporting equipment. It may be either dry land or water, parbuckled over a brow log or removed by machine.

~~((66))~~ Logging machine - a machine used or intended for use to yard, move, or handle logs, trees, chunks, trailers, and related materials or equipment. This shall include self-loading log trucks only during the loading and unloading process.

~~((67))~~ Log(~~(s)~~) - a tree segment(~~(s)~~) suitable for subsequent processing into lumber, pulpwood, or other wood

products, including but not limited to poles, piling, peeler blocks, sections and/or bolts.

~~((68))~~ Log stacker - a mobile machine mounted on a wheeled or tracked chassis, equipped with a frontally mounted grapple, tusk, or forklift device, and employed in the loading, unloading, stacking, or sorting of logs.

~~((69))~~ Long sticks - an overlength log that creates a hazard by exceeding the safe perimeters of the landing.

~~((70))~~ Machine - a piece of stationary or mobile equipment having a self-contained power plant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers, graders, bulldozers, swing yarders (rough terrain logging shovels), log stackers and mechanical felling devices, such as tree shears and feller-bunchers.

Mainline - the line attached to the buttrigging used to pull logs to the landing.

~~((71))~~ ~~Mainline block - the block hung in the spar through which the mainline passes.~~

~~((72))~~ ~~Mainline train - any train that is made up for travel between the woods and log dump.~~

~~((73))~~ Matchcutting - the felling of trees without using an undercut.

~~((74))~~ Mechanized falling - falling of standing timber by a self-propelled mobile wheeled or tracked machine equipped with a shear or other powered cutting device.

~~((75))~~ Mechanized feller - any such machine as described in WAC 296-54-535 and 296-54-537, and includes feller/bunchers and similar machines performing multiple functions.

~~((76))~~ Mobile log loader - a self-propelled log loading machine mounted on wheels or tracks ~~((, incorporating a grapple rigged Bohemian, goose neck, or straight boom fabricated structure, employed in the loading or unloading of logs by means of grapples or tongs)).~~

~~((77))~~ Mobile yarder - a logging machine mounted on wheels, tracks, or skids, incorporating a vertical or inclined spar, tower, or boom ~~((, employed in skyline, slaekline, high lead, or grapple overhead cable yarding systems)).~~

~~((78))~~ Must - the same as "shall" and is mandatory.

~~((79))~~ New area or setting - a location of operations when both the loading station and the yarder are moved.

~~((80))~~ Pass line - a small line threaded through a block at the top of the spar to assist the high climber.

~~((81))~~ Permissible (as applied to any device, equipment or appliance) - such device, equipment, or appliance has the formal approval of the United States Bureau of Mines, American Standards Association, or National Board of Fire Underwriters.

~~((82))~~ Portable spar or tower - a movable engineered structure designed to be used in a manner similar to which a wood spar tree would be used.

~~((83))~~ Qualified person - a person, who by possession of a recognized degree, certificate, professional standing, or by extensive knowledge, training, and experience, has successfully demonstrated ability to solve or resolve problems relating to the subject matter, the work, or the project.

~~((84))~~ Rated capacity - the maximum load a system, vehicle, machine or piece of equipment was designed by the manufacturer to handle.

Reach - a steel tube or wood timber or pole connected to the truck and inserted through a tunnel on the trailer. It steers the trailer when loaded and pulls the trailer when empty.

((85)) Receding line - the line on a skidder or slackline comparable to the haulback line on a yarder.

((86)) Reload - an area where logs are dumped and reloaded or transferred as a unit to another mode of transportation.

((87)) Rollway - any place where logs are dumped and they roll or slide to their resting place.

((88)) Root wad - the ball of a tree root and dirt that is pulled from the ground when a tree is uprooted.

R.O.P.S. - roll over protection structure.

~~((89)) Rub tree - a tree used to guide a turn around a certain area.~~

((90)) Running line - any line which moves.

~~((91)) SAE - society of automotive engineers.~~

((92)) Safety factor - the ratio of breaking strength to a safe working strength or loading.

((93)) Safety glass - a type of glass that will not shatter when broken.

((94)) Sail block - a block hung inverted on the sail guy to hold the tong block in proper position.

((95)) Scaler - the person who measures the diameter and length of the logs, determines specie and grade, and makes deductions for footage calculations.

((96)) Serviceable condition - a state or ability of a tool, machine, vehicle or other device to operate as it was intended by the manufacturer to operate.

Shall - a requirement that is mandatory.

((97)) Shear log - a log placed in a strategic location to divert passage of objects.

~~((98)) Shore skids - any group of timbers spaced a short distance apart on which logs are rolled.~~

((99)) Signal person - the person designated to give signals to the machine operator.

((100)) Siwash - to change the lead of a line with a physical object such as a stump or tree instead of a block.

((101)) Skidder - a machine or animal used to move logs or trees to a landing.

((102)) Skidding - movement of logs or trees on the surface of the ground to the place where they are to be loaded.

((103)) Skyline - the line suspended between two points on which a block or carriage travels.

((104)) Slackline - a form of skyline where the skyline cable is spooled on a donkey drum and can be raised or lowered.

((105)) Slack puller - any weight or mechanical device used to increase the movement of a line when its own weight is inadequate.

((106)) Slope (grade) - the increase or decrease in altitude over a horizontal distance expressed as a percentage. For example, change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

Snag - a dead standing tree or a portion thereof. (See Danger tree)

~~((107)) Snorkel - a loading boom modified to extend its limitations for the purpose of yarding.~~

~~((108)) Spar/spar tree - a device rigged for highlead, skyline or slackline yarding.~~

~~((109)) Spar tree - (see spar).~~

((110)) Speeder - a small self-powered vehicle that runs on a railroad track.

~~((111)) Spike - a long heavy nail similar to a railroad spike.~~

((112)) Springboard - a board with an iron tip used by fallers to stand on while working above ground level.

((113)) Spring pole - a tree, segment of a tree, limb, or sapling which is under stress or tension due to the pressure or weight of another object.

Square lead - the angle of 90 degrees.

((114)) Squirrel - a weight used to swing a boom when the power unit does not have enough drums to do it mechanically.

((115)) Squirrel tree - a topped tree, guyed if necessary, near the spar tree in which the counter balance (squirrel) of a tree rigged boom is hung.

((116)) Stiff boom - two or more boom sticks wrapped together on which boom persons walk or work.

((117)) Strap - any short piece of line with an eye or "D" in each end.

((118)) Strawline - a small line used for miscellaneous purposes.

~~((119)) Strap socket or D - a socket with a closed loop and arranged to be attached to the end of a line by the molten zinc, or an equivalent method. It is used in place of a spliced eye.~~

((120)) Strip - a definite location of timber on which one or more cutting crews work.

~~((121)) Swamping - the falling or cutting of brush around or along a specified place.~~

~~((122)) Swifter - a piece of equipment used to tie the side sticks of a log raft together to keep the raft from spreading.~~

((123)) Swing cut - a back cut in which the holding wood on one side is cut through.

((124)) Tail block - the haulback block at the back end of the show.

((125)) Tail hold - an anchor used for making fast any line or block.

((126)) Tail tree - the tree at the opposite end from the head tree on which the skyline or other type rigging is hung.

((127)) Tie down - a chain, cable, steel strips or fiber webbing and binders attached to a truck, trailer or other conveyance as a means to secure loads and to prevent them from shifting or moving when they are being transported.

Tight line - when either the mainline or haulback are held and power is exerted on the other or when power is exerted on both at the same time.

((128)) Tong line block - the block hung in a boom through which the tong line operates.

((129)) Tongue - a device used to pull and/or steer a trailer.

~~((130)) Topping - cutting off the top section of a standing tree ((prior to rigging the tree for a spar or tail tree)).~~

((131)) Tower - (see portable spar or tower).

((132)) Tractor - a machine of wheel or track design used in logging.

((133)) Tractor logging - the use of any wheeled or tracked vehicle in the skidding or yarding of logs.

~~((134))~~ Transfer (as used in loading) - changing of logs in a unit from one mode of transportation to another.

~~((135))~~ Tree jack - a grooved saddle of wood or metal rollers contained within two steel plates, attached to a tree with a strap, used as a guide for skyline, sail guy, or similar static line. It is also formed to prevent a sharp bend in the line.

~~((136))~~ Tree plates - steel bars sometimes shaped as elongated J's, which are fastened near the top of a tree to hold guylines and prevent them from cutting into the tree when tightened. The hooks of the J are also used to prevent the mainline block strap from sliding down the tree.

~~((137))~~ Tree pulling - a method of falling trees in which the tree is pulled down with a line.

~~((138))~~ Tug - a boat, usually over twenty feet in length, used primarily to pull barges, booms of logs, bags of debris, or log rafts.

~~((139))~~ Turn - any log or group of logs attached by some means to power and moved from a point of rest to a landing.

~~((140))~~ "V" lead - a horizontal angle of less than 90 degrees formed by the projected lines of the mainline from the drum of the logging machine through the block or fairlead and the yarding lead or turn.

~~((141))~~ Undercut - a notch cut in a tree to guide the direction of the tree fall and to prevent splitting or kickback.

Vehicle/crew bus - a car, bus, truck, trailer or semi-trailer owned, leased, or rented by the employer that is used for transportation of employees or movement of material.

WAC - Washington Administrative Code.

~~((142))~~ Waistline - that portion of the haulback running between the corner block and the tail block.

Winching - the winding of cable or rope onto a spool or drum.

~~((143))~~ Wrapper - a cable assembly or chain used to contain a load of logs.

~~((144))~~ Wrapper rack - barrier used to protect a person while removing binders and wrappers from a loaded logging truck.

~~((145))~~ Yarder (donkey) - a machine with a series of drums used to yard logs. ~~((See donkey))~~

~~((146))~~ Yarding - the movement of logs from the place they are felled to a landing.

AMENDATORY SECTION (Amending WSR 94-16-145, filed 8/3/94, effective 9/12/94)

WAC 296-54-507 Management's responsibility. In addition to observance of the general safety and health standards:

(1) The employer shall assume the responsibility of safety training for new employees.

(2) The employer shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) The employer shall assume the responsibility of work assignments so that no employee shall be allowed to work in a position or location so isolated that he/she is not within ordinary calling distance of another employee who

can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties is carried on, there shall be a minimum of two employees who shall work as a team and shall be in visual or hearing contact with one another to allow prompt awareness of injury or cessation of work activity of one employee by the other. No employee shall be left alone for a period of time to exceed fifteen minutes without visual or hearing contact. In addition, there shall be some system of back-up communication in the near proximity to enable an employee to call for assistance in case of emergency.

Note: This does not apply to operators of motor vehicles, watchpersons or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

(4) The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his/her crew being accounted for. This standard also includes operators of all movable equipment.

(5) Prior to the commencement of logging operations in a new area or setting, ~~((a safety meeting shall be held and))~~ a plan shall be developed and implemented whereby management shall ascertain by direct supervision that the work is being carried out with special emphasis on safety and safe work practices.

~~((When extreme weather or other extreme conditions are such that additional hazards arise, additional precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume.))~~ Environmental conditions. All work shall terminate and each employee shall move to a place of safety when environmental conditions, such as but not limited to, electrical storms, strong winds which may affect the fall of a tree, heavy rain or snow, extreme cold, dense fog, fires, mudslides, and darkness, create a hazard for the employee in the performance of the job.

(7) Danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees shall not be exposed to hazards involved.

(8) Management shall ensure that intoxicating beverages and narcotics are not permitted or used by employees on or in the vicinity of the work site. Management shall cause employees under the influence of alcohol or narcotics to be removed from the work site. This requirement does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others.

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

WAC 296-54-511 Personal protective equipment.

(1) General requirements.

(a) Protective equipment, including personal protective equipment for eyes, face, head, hearing and extremities, protective clothing, respiratory devices and protective shields and barriers, shall be ~~((provided))~~ used, and maintained in a sanitary and reliable condition wherever it is necessary by

reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) ~~((Employee-owned equipment. Where employees are required to provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance and sanitation of such equipment.))~~ The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is maintained in a serviceable condition.

(c) Design. All personal protective equipment shall be of safe design and construction for the work to be performed. All safety belts and attachments shall meet the requirements of section 3 of ANSI A10.14-1975.

(d) The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable personal protective equipment shall be replaced before work is commenced.

(2) Eye and face protection. ~~((Protective eye and/or face equipment shall be required and worn where there is a probability of injury that can be prevented by such equipment. In such cases, employers shall make conveniently available a type of protector suitable for the work to be performed, and employees shall use such protectors. Suitable eye protectors shall be provided and worn where machines or operations present the hazard of flying objects, glare, liquids, injurious radiation, or a combination of these hazards.))~~ The employer shall provide, at no cost to the employee, and assure that each employee wears the following:

(a) Eye protection meeting the requirements of chapter 296-24 WAC, Part A-2 where there is potential for eye injury due to falling or flying objects; and

(b) Face protection meeting the requirements of chapter 296-24 WAC, Part A-2 where there is potential for facial injury such as, but not limited to, operating a chipper. Logger-type mesh screens may be worn by employees performing chain-saw operations and yarding. Note to subsection (2): The employee does not have to wear a separate eye protection device where face protection covering both the eyes and face is worn.

(3) Respiratory protection. The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(4) Occupational head protection. ~~((Protective helmets meeting the specifications contained in American National Standards Institute (ANSI), shall be worn by all employees involved in the logging operation or any of its related activities unless such employees are protected by F.O.P.S., cabs or canopies.))~~ The employer shall provide, at no cost to the employee, and assure that each employee who works in an area where there is potential for head injury from falling or flying objects unless such employees are protected by F.O.P.S., cabs or canopies, wears head protection meeting the requirements of this chapter. Protective helmets shall be maintained in serviceable condition.

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

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

(5) Personal flotation devices. Employees working on, over or along water, where the danger of drowning exists, shall be provided with and shall wear approved personal flotation devices in accordance with General safety and health standards, WAC 296-24-086.

(6) Occupational footwear. The employer shall assure that each employee wears foot protection, such as heavy-duty logging boots that are waterproof or water repellent, cover and provide support to the ankle. The employer shall assure that each employee who operates a chain saw wears foot protection that is constructed with cut-resistant material which will protect the employee against contact with a running chain saw. The traditional heavy-duty logging boot will meet the cut-resistant requirements of this subsection.

(a) All employees whose duties require them to walk on logs or boomsticks, shall wear sharp-calked (boots) shoes, or the equivalent, except when conditions such as ice, snow, etc., render calks ineffective. When calks are ineffective and other footwear does not afford suitable protection, workers shall not be required to work on logs or boomsticks.

(b) When nonslip type shoes or boots afford a greater degree of employee protection than calk (boots) shoes, such as at scaling stations, log sorting yards, etc., then this type footwear may be worn in lieu of calk shoes providing firm ankle support and secure footing are maintained.

~~((Employees whose normal duties require them to operate a power saw shall wear a flexible ballistic nylon pad or pads, sewn or otherwise fastened into the trousers, or other equivalent protection, that will protect the vulnerable area of the legs.))~~ The employer shall provide, at no cost to the employee, and assure that each employee who operates a chain saw wears leg protection constructed with cut-resistant material, such as ballistic nylon. The leg protection shall cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving, chain saw.

Exception: This requirement does not apply when an employee is working as a climber if the employer demonstrates that a greater hazard is posed by wearing leg protection in the particular situation, or when an employee is working from a vehicular mounted elevating and rotating work platform meeting the requirements of chapter 296-24 WAC, Part J-2, Vehicle-mounted elevating and rotating work platforms.

~~((All employees handling lines))~~ The employer shall provide, at no cost to the employee, and assure that each employee handling wire rope or other rough materials (where there is a reasonable possibility of hand injury, shall wear suitable gloves or other hand protection to prevent injury)) wears hand protection which provides

adequate protection from puncture wounds, cuts and lacerations.

(9) Hearing protection. The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(10) Protective clothing. Employees working on landings or in log sorting yards, when working on or from the ground, shall wear highly visible hard hats and/or yellow or orange vests, or similarly colored garments, to enable equipment operators to readily see them. It is recommended that such hard hats and vests or outer garments be of a luminous or reflectorized material. Employees performing duties of a flagperson shall wear a hard hat and vest or garment of contrasting colors. Warning vests and hard hats worn at night shall be of a reflectorized material.

Note: See chapter 296-24 WAC, Part A-2, for additional personal protective equipment requirements.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-513 Safety ((~~educational~~) education, training and first-aid requirements. ((See the general safety and health standards, WAC 296-24-040 through 296-24-065.)) (1) Training. The employer shall provide training for each employee, including supervisors, at no cost to the employee.

(2) Frequency. Training shall be provided as follows:

(a) Prior to initial assignment for each new employee;

(b) Whenever the employee is assigned new work tasks, tools, equipment, machines or vehicles; and

(c) Whenever an employee demonstrates unsafe job performance.

(3) Content. At a minimum, training shall consist of the following elements:

(a) Safe performance of assigned work tasks;

(b) Safe use, operation and maintenance of tools, machines and vehicles the employee uses or operates, including emphasis on understanding and following the manufacturer's operating and maintenance instructions, warnings and precautions;

(c) Recognition of safety and health hazards associated with the employee's specific work tasks, including the use of measures and work practices to prevent or control those hazards;

(d) Recognition, prevention and control of other safety and health hazards in the logging industry;

(e) Procedures, practices and requirements of the employer's work site; and

(f) The requirements of this chapter.

(4) Training of an employee due to unsafe job performance, or assignment of new work tasks, tools, equipment, machines, or vehicles; may be limited to those elements in subsection (3) of this section which are relevant to the circumstances giving rise to the need for training.

(5) Portability of training.

(a) Each current employee who has received training in the particular elements specified in subsection (3) of this section shall not be required to be retrained in those elements.

(b) Each new employee who has received training in the particular elements specified in subsection (3) of this section

shall not be required to be retrained in those elements prior to initial assignment.

(c) The employer shall train each current and new employee in those elements for which the employee has not received training.

(d) The employer is responsible for ensuring that each current and new employee can properly and safely perform the work tasks and operate the tools, equipment, machines, and vehicles used in their job.

(6) Each new employee and each employee who is required to be trained as specified in subsection (2) of this section, shall work under the close supervision of a designated person until the employee demonstrates to the employer the ability to safely perform their new duties independently.

(7) First-aid training.

(a) The employer shall assure that each employee, including supervisors, receives or has received first-aid and CPR training.

(b) First-aid and CPR training shall comply with the requirements of this section and WAC 296-24-060 (3)(e), Part A-1.

(c) The employer shall assure that each employee's first-aid and CPR training and/or certificate of training remain current.

Note: First-aid trained personnel at sorting yards may be provided as prescribed in WAC 296-24-060 "First-aid training and certification."

(8) All training shall be conducted by a designated person.

(9) The employer shall assure that all training required by this standard is presented in a manner that the employee is able to understand. The employer shall assure that all training materials used are appropriate in content and vocabulary to the educational level, literacy, and language skills of the employees being trained.

(10) Certification of training.

(a) The employer shall verify compliance with subsection (1) of this section by preparing a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer.

(b) The most recent training certification shall be maintained.

(11) Safety and health meetings.

(a) The employer shall hold safety and health meetings as necessary and at least each month for each employee. Safety and health meetings may be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.

(b) Minutes of each safety and health meeting shall be prepared and filed for a period of at least one year and shall be made available for review by noncompliance personnel of the departments consultation and compliance division.

(c) Safety and health meetings shall at a minimum address the following:

(i) A review of the safety and health inspection reports to assist in correction of identified unsafe conditions or practices;

(ii) An evaluation of the accident investigations conducted since the last meeting to determine if the cause of the

unsafe acts or unsafe condition involved was properly identified and corrected;

(iii) An evaluation of the accident and illness prevention program with a discussion of recommendations for improvement where indicated;

(iv) The attendance shall be documented;

(v) The subject(s) discussed shall be documented.

(12) First-aid kits. The employer shall provide first-aid kits at each work site where trees are being cut (e.g., felling, bucking, limbing), at each active landing, and on each employee transport vehicle. The number of first-aid kits and the content of each kit shall reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the work site.

(13) **The following list sets forth the minimally acceptable number and type of first-aid supplies for first-aid kits required under this chapter. The contents of the first-aid kit listed should be adequate for small work sites, consisting of approximately two to three employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits should be provided at the work site or additional quantities of supplies should be included in the first-aid kits:

(a) Gauze pads (at least 4x4 inches);

(b) Two large gauze pads (at least 8x10 inches);

(c) Box adhesive bandages 1" (band-aids, 16 per pkg.);

(d) One package gauze roller bandages at least 2 inches wide;

(e) Two triangular bandages 40";

(f) Wound cleaning agent such as sealed moistened towelettes;

(g) Scissors* and Tweezers;

(h) At least two blankets;

(i) Adhesive tape;

(j) Latex gloves;

(k) Resuscitation equipment such as resuscitation bag, airway, or pocket mask;

(l) Two elastic wraps;

(m) Splint;

(n) Directions for requesting emergency assistance***.

* Scissors shall be capable of cutting 2 layers of 15 oz. cotton cloth or its equivalent.

** The 10-pack first-aid kit described in WAC 296-24-065(7) will comply with the first-aid kit requirement for fallers and buckers in WAC 296-54-529(20), provided, the primary kit required by subsection (13) of this section is available at the worksite. First-aid kits at sorting yards may be provided as prescribed in WAC 296-24-065 "First-aid kit."

*** Directions for emergency assistance can be part of the plan outlined in WAC 296-54-507(5).

(14) The employer shall maintain the contents of each first-aid kit in a serviceable condition.

(15) The employer also may have the number and content of first-aid kits reviewed and approved annually by a health care provider.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-515 General requirements. (1) Emergency stops. Speed limiting devices, safety stops or emergency shut down devices or shut off valves shall be provided, with the controls so located that in the event of an emergency, the prime mover may be shut down from a safe place.

(2) Machine operators. Machine operators shall be experienced in operating the equipment they are using, except that inexperienced persons may operate the equipment to gain experience while in training and may do so only while working under immediate supervision of an experienced authorized person.

(3) Refueling vehicles. ~~((Vehicles shall not be fueled while the motors are running with the exception of helicopters, which is permitted under certain conditions. (See WAC 296-54-559(36).)))~~ Each machine, vehicle, and portable powered tool shall be shut off during fueling. Diesel-powered machines and vehicles may be fueled while they are at idle, provided that continued operation is intended and that the employer follows safe fueling and operating procedures. Exception: Fueling of helicopters is permitted under WAC 296-54-559(36).

(4) Hydraulic lines. If failure of hydraulic lines would create a hazard to an equipment operator while at the operating station, safeguards shall be installed in such a manner as to eliminate the hazard. All hydraulic lines shall be maintained free of leaks and shall be shielded from damage wherever possible.

(5) Defective equipment.

(a) Equipment in need of repair shall be reported to management in writing as soon as possible and such equipment shall not be used until repairs are completed if there is a possible hazard to safety of the operator or other employees.

(b) The employer shall assure that each vehicle used to perform any logging operation is maintained in serviceable condition.

(c) The employer shall assure that each vehicle used to perform any logging operation is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable vehicle shall be replaced before work is commenced.

(6) Lock out - tag out. Procedures for lock out - tag out shall be established and implemented to prevent the accidental starting of equipment that is shut down for repairs, maintenance or adjustments. Note: In determining a need for lock out/tag out, control of hazardous energy procedures can be located in chapter 296-24 WAC, Part A-4, Safety procedures.

(7) Control marking. The controls of all machines shall be marked as to their purpose in the operation of the machine.

(8) Metal objects. Metal objects driven into trees or logs shall be removed immediately after serving their intended purpose.

(9) Fire protection. ~~((An approved, fully charged and maintained, fire extinguisher shall be available at locations where machines are operating or on each vehicle.))~~ The employer shall provide and maintain portable fire

extinguishers on each machine and vehicle in accordance with the requirements of chapter 296-24 WAC, Part G-3. Fire suppression equipment.

(10) Hand and portable powered tools.

(a) The employer shall assure that each hand and portable powered tool, including any tool provided by an employee, is maintained in serviceable condition.

(b) The employer shall assure that each tool, including any tool provided by an employee, is inspected before initial use during each workshift. At a minimum, the inspection shall include the following:

(i) Handles and guards, to assure that they are sound, tight-fitting, (properly shaped, free of splinters and sharp edges, and in place);

(ii) Controls, to assure proper function;

(iii) Chain saw chains, to assure proper adjustment;

(iv) Chain saw mufflers, to assure that they are operational and in place;

(v) Chain brakes and/or noise shielding devices, to assure that they are in place and function properly;

(vi) Heads of shock, impact-driven and driving tools, to assure that there is no mushrooming.

(c) The employer shall assure that each tool is used only for purposes for which it has been designed.

(d) When the head of any shock, impact-driven or driving tool begins to chip, it shall be repaired or removed from service.

(e) The cutting edge of each tool shall be sharpened in accordance with manufacturer's specifications whenever it becomes dull during the workshift.

(f) Each tool shall be stored in the provided location when not being used at a work site.

(g) Hand and portable powered tools and other hand-held equipment not addressed by this chapter shall be maintained and used in accordance with the general safety and health standards, WAC 296-24-650.

(11) ~~(Storage, handling and marking of fuel. Fuel)~~ Flammable and combustible liquids shall be stored, handled ~~((and marked))~~, transported and used in accordance with ~~((WAC 296-24-330))~~ the requirements of chapter 296-24 WAC, Part E, and the following:

(a) Flammable and combustible liquids shall not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(b) Flammable or combustible liquids, including chain-saw and diesel fuel, may be used to start a fire, provided the employer assures that in the particular situation its use does not create a hazard for an employee.

(12) Smoking prohibited. Smoking shall be prohibited in battery charging areas and within fifty feet of all refueling operations. Precautions shall be taken to prevent open flames, sparks or electric arcs in battery charging or refueling areas.

(13) Charging batteries. When charging batteries, the vent caps shall be kept in place to avoid electrolyte spray. Care shall be taken to ensure caps are functioning. The battery (or compartment) cover(s) shall be open to dissipate heat.

(14) Uncovered batteries. Tools and other metallic objects shall be kept away from the tops of uncovered batteries.

(15) Work areas.

(a) Employees shall be spaced and the duties of each employee shall be organized so the actions of one employee will not create a hazard for any other employee.

(b) Work areas shall be assigned so that trees cannot fall into an adjacent occupied work area. The distance between adjacent occupied work areas shall be at least two tree lengths of the trees being felled. The distance between adjacent occupied work areas shall reflect the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at that work site. A distance of greater than two tree lengths shall be maintained between adjacent occupied work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

(16) Signaling and signal equipment. Engine noise, such as from a chain saw, is not an acceptable means of signaling. Signaling and signal equipment shall comply with the requirements of this chapter.

(17) Overhead electric lines.

(a) Logging operations near overhead electric lines shall be done in accordance with the requirements of WAC 296-54-557(25).

(b) Special precautions shall be taken to prevent trees from falling into power lines. The employer shall notify the power company immediately if a felled tree makes contact with any power line. If it appears that a tree will hit a power line, the power company shall be notified before it is attempted to fall the tree. If an unsuspected tree does contact a power line, each employee shall remain clear of the area until the power company advises that there are no electrical hazards.

(18) Explosives and blasting agents. Explosives and blasting agents shall be stored, handled, transported, and used in accordance with the requirements of chapter 296-52 WAC, Possession and handling of explosives.

(19) Seat belts. For each vehicle or machine (equipped with ROPS/FOPS or overhead guards), including any vehicle or machine provided by an employee, the employer shall assure:

(a) That a seat belt is provided for each vehicle or machine operator;

(b) That each employee uses the available seat belt while the vehicle or machine is being operated;

(c) That each employee securely and tightly fastens the seat belt to restrain the employee within the vehicle or machine cab;

(d) That each machine seat belt meets the requirements of the Society of Automotive Engineers Standard SAE J386, June 1985, "Operator Restraint Systems for Off-Road Work Machines." Prior to February 9, 1995, seat belts and assemblies shall be designed, constructed and maintained to conform to the requirements specified in the society of automotive engineers technical report J386 or J333a. Seat belts need not be provided for equipment which is designed for stand-up operations;

(e) That seat belts are not removed from any vehicle or machine. The employer shall replace each seat belt which has been removed from any vehicle or machine that was equipped with seat belts at the time of manufacture; and

(f) That each seat belt is maintained in a serviceable condition.

(20) The rated capacity of any vehicle transporting a machine shall not be exceeded.

(21) Machines shall be loaded, secured and unloaded in a manner so that it will not create a hazard for any employee.

(22) Roads and trails.

(a) Roads shall be maintained and hazardous conditions corrected.

(b) Where vision is limited warnings shall be posted.

(c) Curve radii shall be the maximum consistent with terrain.

(d) When night work is necessary, lighting shall be provided in accordance with WAC 296-54-555(12).

(e) Local road standards and maximum weight of traffic expected shall be used as guides for materials, construction features and drainage.

(23) Road and trail pioneering and earthwork.

(a) Banks at the borrow area shall be sloped to prevent slides.

(b) Backfill shall be firmly compacted.

(c) Roadside banks shall be sloped or stabilized to prevent slides.

(d) Overhanging banks, large rocks and debris shall be removed or secured.

(e) Where riprap is used the material and design shall assure containment of material.

(24) Road and trail drainage.

(a) Drainage shall be provided to prevent washouts and landslides.

(b) Culverts shall be of adequate strength and of a size to handle maximum runoff.

(c) Where necessary, ditches and banks shall be stabilized by vegetation, riprap, or other adequate means.

(25) Road and trail surfacing. Road surface shall be properly compacted, graded and crowned.

(26) Bridges. Bridges shall be constructed in accordance with the provisions of WAC 296-54-527.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-519 (~~Transportation of crews by~~) Motor vehicles. (1) Seats. (~~Anchored seats shall be provided for each person when riding in any vehicle.~~) The seats of each vehicle shall be securely fastened.

(2) Seat belts. The driver of a crew vehicle shall be provided with and shall wear a seat belt (~~at all times the crew vehicle is in motion~~) according to the provisions of WAC 296-54-515(19).

(3) Barricade. After May 1, 1980, a substantial barricade shall be provided behind the driver of a crew bus or vehicle that will transport nine or more passengers. The barricade shall extend from the floor to at least a level even with the top of the driver's head.

(4) Safe entrance and exits. Adequate provisions shall be made for safe entrance and exits. Mounting steps and handholds shall be provided for each vehicle wherever it is necessary to prevent an employee from being injured when entering or leaving the vehicle.

(5) Enclosed racks. When equipment or tools are carried inside the vehicle, (~~they shall be stored in enclosed racks or boxes, which shall be properly secured to the~~

~~vehicle~~) racks, boxes, holsters or other means shall be provided, arranged and used for the transportation of tools so that a hazard is not created for any vehicle operator or passenger.

(6) Vehicle to be stopped. Persons shall not enter or exit from any vehicle until the vehicle is completely stopped.

(7) Keep within vehicle. Persons shall keep all parts of the body within the vehicle.

(8) Stoves prohibited. Provisions shall be made for heat and light in the passenger portion of the vehicle. Use of stoves in vehicles is prohibited.

(9) Emergency exit. On vehicles designed to transport nine or more passengers, an emergency exit not less than six and one-half square feet in area, with the smaller dimension being not less than 18 inches, shall be placed at the back of the vehicle or near the back on the side opposite the regular entrance. The route to and egress from the exit must be unobstructed at all times.

(10) Fire extinguisher. When no fuel is transported in the crew vehicle, a minimum rated 5/BC dry chemical fire extinguisher shall be kept in the passenger compartment. When fuel is transported on the crew vehicle in accordance with subsection (14) of this section, a minimum rated 10/BC dry chemical fire extinguisher shall be kept in the passenger compartment. The extinguishing agent shall be nontoxic and preferably a noncorrosive type.

(11) Crew and emergency vehicles. Vehicles designed to transport five or more passengers shall be equipped with stretchers, two blankets, and first-aid kits. If used as a means of transporting injured persons, it shall be designed to enable persons to pass a loaded stretcher into the vehicle. Provisions shall be made for proper securing of the stretcher.

(12) Exhaust systems. Exhaust systems shall be designed and maintained to eliminate the exposure of passengers to toxic agents.

(13) (~~Limitation of transportation of explosives. Explosives shall not be carried on any vehicle while the vehicle is being used to transport workers other than the driver and two persons.~~) The employer shall assure that operating and maintenance instructions are available in each vehicle. Each vehicle operator and maintenance employee shall comply with the operating and maintenance instructions.

(14) Limitation of transportation of fuels. Fuels shall be transported or stored only in approved safety containers. Enclosed areas where fuels are carried or stored shall be vented in such a manner that a hazardous concentration of fumes cannot accumulate. All containers or drums shall be properly secured to the vehicle while being transported. Commercially built vehicles of the pick-up or flatbed type with a seating capacity of not to exceed six persons may be used to carry fuels in or on the bed of such vehicles, providing such fuels are not carried in the crew compartment. Van-type vehicles may be used to carry fuels only when a vapor-proof bulkhead is installed between the passenger compartment and storage compartment. Not more than forty-two gallons of gasoline may be carried or stored in the compartment and each container shall have a capacity not exceeding seven gallons.

(15) Motor vehicle laws. Motor vehicles used as crew vehicles regularly for the transportation of workers shall be covered against the weather and equipped and operated in

conformity with applicable state of Washington motor vehicle laws.

(16) Operator's license. ~~((All operators of crew vehicles shall be experienced drivers and shall possess a current valid drivers license.))~~ The employer shall assure that each vehicle operator has a valid operator's license for the class of vehicle being operated.

(17) Daily vehicle check. Operators of crew vehicles shall check brakes and lights daily and shall keep windshields and mirrors clean.

(18) Good repair. Crew vehicles shall be maintained in good repair and safe condition.

(19) Dump trucks. Dump trucks shall only be used in an emergency to transport workers and shall be equipped with adequate safety chains or locking devices which will eliminate the possibility of the body of the truck being raised while employees are riding in the truck. Emergency shall mean any unforeseen circumstances which calls for immediate action when danger to life or danger from fire exists.

(20) Means of signaling. An effective means of signaling shall be provided for communication between the driver and the passengers being transported when they are in separate compartments.

(21) Load limit. The passenger load limit of a crew vehicle shall not exceed the seating capacity of the vehicle.

(22) Vehicle check. Crew vehicles shall be thoroughly inspected by a mechanic for defects which could create a hazardous condition for operation. Such inspections shall be carried out at least every month. Defects known to the operator shall be reported in writing to the mechanic or person in charge. If defects are found, they shall be corrected before the vehicle is used for the transportation of crews.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-521 Transportation of crews by use of speeders and trailers. (1) Braking systems. All speeders shall be equipped with two separate and independently operated braking systems either of which shall be of sufficient capacity to lock all wheels when speeder is fully loaded.

(2) Sanding methods. All speeders used for transporting crews shall be equipped with methods for sanding tracks, operative for both directions of travel.

(3) Lights, windshield wipers. Electric lights of sufficient candle power and range so that vehicle can be stopped within the range of the beam, and which will shine in the direction of travel, shall be provided on all speeders. Adequate tail lights shall be installed and maintained in good order. Automatic windshield wipers of sufficient capacity to maintain clear visibility shall be installed on all speeders.

(4) Trailers. When trailers are coupled behind speeders, they shall be equipped with two separate and independent braking systems, either shall be of sufficient capacity to lock all wheels when the trailer is fully loaded. One of these shall be power operated and shall be controlled from the speeder; the other manually operated from the trailer. One ~~((man))~~ person shall be designated to operate this brake in case of emergency.

(5) Trailer coupling. All trailers shall be coupled to speeders with metal couplings and safety chains or straps of

sufficient strength to withstand the impact caused by a broken coupling.

(6) Trailer not to coast. No trailer shall coast or be used as a crew car without being attached to a speeder.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-523 Methods of crew transportation other than those specified. Special approval. Persons or firms desiring to transport crews by methods other than those specified in these rules shall so inform the ~~((division of industrial safety and health,))~~ department of labor and industries, so that an evaluation of that method may be made. Should the proposed method be found to afford a measure of safety acceptable to the ~~((division of industrial safety and health,))~~ department of labor and industries, a written order stating that finding shall be issued to the person or firm concerned by the ~~((division of industrial safety and health,))~~ department of labor and industries and the proposed method may be utilized.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-529 Falling and bucking—General. (1) Before starting to fall or buck any tree or snag, the cutter shall survey the area for possible hazards and proceed according to safe practices. Snags which are unsafe to cut shall be blown down with explosives or felled by other safe methods.

(2) ~~((Workers))~~ No employee shall ((not)) approach a ((faller within reach of the)) feller closer than two tree lengths of trees being felled ((unless a signal has been given and)) until the feller has acknowledged ((by the faller that it is safe to approach)) that it is safe to do so, unless the employer demonstrates that a team of employees is necessary to manually fell a particular tree.

(3) Before ~~((falling or bucking any tree, sufficient work area shall be swamped and an adequate escape path shall be made))~~ felling is started, the feller shall plan and clear a retreat path. The retreat path shall extend diagonally away from the expected felling line unless the employer demonstrates that such a retreat path poses a greater hazard than an alternate retreat path. An escape path shall be used as soon as the tree or snag is committed to fall, roll or slide.

(4) Warning to be given. Fallers shall give timely and adequate warning prior to falling each tree; such warning shall be given with the saw motor at idle or shut off. Persons in the area shall give response to the faller and shall also notify ~~((him))~~ faller(s) when they are in the clear.

(5) A competent person, properly experienced in this type of work, shall be placed in charge of falling and bucking operations. Inexperienced workers shall not be allowed to fall timber or buck logs unless working under the direct supervision of an experienced worker.

(6) ~~((Snags that have loose bark in the area of the proposed cut shall have the bark removed before being felled.))~~ Each danger tree shall be carefully checked for signs of loose bark, broken branches and limbs or other damage before they are felled or removed. Accessible loose bark and other damage that may create a hazard for an employee shall be removed or held in place before felling or

removing the tree. When a ~~((snag))~~ danger tree has elevated loose bark which cannot be removed, the buddy system shall be used to watch for and give warning of falling bark or other hazards.

(7) Tools of fallers and buckers, such as axes, sledges, wedges, saws, spring boards, etc., must be maintained in safe condition. Case hardened or battered sledges and wedges shall not be used. ~~((All tools shall be used for their intended purposes.))~~

(8) Trees shall not be felled if the falling tree can endanger any worker or strike any line or any unit in the operation.

(9) When practical, strips shall be laid out so cutters face out into opening when starting strip, and all trees shall be felled into the open whenever conditions permit.

(10) Trade leaners. Cutters shall not fall into another strip; leaners on the line shall be traded.

(11) When there is danger from kickback of a sapling, the same must be either undercut or felled.

(12) Cutters shall place an adequate undercut and leave sufficient holding wood to insure the tree will fall in the intended direction. When required, mechanical means shall be used to accomplish this objective.

(13) Cutters shall be careful their chopping range is unobstructed.

(14) Cutters shall confer with their supervisor regarding a safe manner of performing the work and in unusually hazardous situations shall not proceed with the work until their method has been approved by their supervisor.

(15) The person in charge of cutting crews shall regularly inspect the work of the cutting crews and shall be responsible for seeing the work is performed in a proper and safe manner.

(16) Common sense and good judgment must of necessity govern the safety of cutters as affected by weather conditions. ~~((At no time shall they work if wind is strong enough to prevent the falling of trees in the desired direction or when vision is impaired by dense fog or darkness.))~~ Before each tree is felled, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, shall be evaluated by the feller and precautions taken so a hazard is not created for an employee. Each tree shall be checked for accumulations of snow and ice. Accumulations of snow and ice that may create a hazard for an employee shall be removed before felling is commenced in the area or the area shall be avoided.

(17) Cutters shall be assigned to work in locations where they are in contact with others or their welfare shall be checked on as provided for by WAC 296-54-507~~((2))~~ (3).

(18) Persons in charge of cutting crews shall account for all persons in their crews being on hand when work ceases as provided for by WAC 296-54-507~~((3))~~ (4).

(19) All fallers and buckers shall have a current first-aid card.

(20) All fallers and buckers shall carry or have with them in near proximity at all times, an axe, a minimum of two wedges, a whistle and a first-aid kit. The whistle shall be carried on their person.

(21) ~~((Special precautions shall be taken to prevent trees from falling into power lines. If it appears that a tree will~~

~~hit a power line, the power company shall be notified before it is attempted to fall the tree. If an unsuspected tree does contact a power line, the power company shall be notified immediately and all persons shall remain clear of the area until the power company personnel advise that conditions have been made safe to resume operations.))~~ While manual felling is in progress, no yarding machine shall be operated within two tree lengths of trees being manually felled. Exception: This provision does not apply to yarding machines performing tree pulling operations.

(22) Wedges shall be of soft metal, hardwood or plastic.

(23) Wedges shall be driven with a hammer or other suitable tool. Double-bitted axes or pulaskies shall not be used for this purpose.

(24) While wedging, fallers shall watch for falling limbs or other material that might be jarred loose. Cutting of holding wood in lieu of using wedges is prohibited.

(25) Undercuts are required except in matchcutting, and shall be large enough to safely guide trees and eliminate the possibility of splitting. Trees with no perceptible lean having undercuts to a depth of one-fourth of the diameter of the tree with a face opening equal to one-fifth of the diameter of the tree, will be assumed to be within reasonable compliance with this rule. Swing cuts are prohibited except by an experienced person.

(26) Undercuts shall be completely removed except when a dutchman is required on either side of the cut.

(27) Backcuts.

(a) Backcuts shall be as level as possible and shall be approximately two inches higher than the undercut in order to provide an adequate platform to prevent kickback, except in tree pulling. This requirement does not apply to open face felling where two angled facecuts rather than a horizontal facecut are used.

(b) A backcut shall be made in each tree being felled. The backcut shall leave sufficient hinge wood to hold the tree to the stump during most of its fall so that the hinge is able to guide the tree's fall in the intended direction.

(28) Trees with face cuts or backcuts shall not be left standing. When a tree is not completely felled, the faller shall clearly mark the tree, shall discontinue work in the hazardous area and notify ~~((his))~~ the immediate supervisor. The supervisor shall be responsible for notifying all workers who might be endangered and shall take appropriate measures to ensure that the tree is safely felled before other work is undertaken in the hazardous area.

(29) To avoid use of wedges, which might dislodge loose bark or other material, snags shall be felled in the direction of lean unless other means (mechanical or dynamite) are used.

(30) Lodged trees shall be clearly marked and identified by a predetermined method and all persons in the area shall be instructed not to pass or work within two tree lengths of such trees except to ground them.

(31) Work areas shall be assigned so that a tree cannot fall into an adjacent occupied work area. The distance between work areas shall be at least twice the height of the trees being felled. A greater distance may be required on downhill slopes depending on the degree of the slope and on the type of trees and other considerations.

(32) Where felled trees are likely to roll and endanger workers, cutting shall proceed from the bottom toward the

top of the slope, and performed uphill from previously felled timber.

(33) Cutters shall not be placed on a hillside immediately below each other or below other operations where there is probable danger.

(34) Fallers shall be informed of the movement and location of buckers or other cutters placed, passing or approaching the vicinity of trees being felled.

(35) A flagperson(s) shall be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead end road, warning signs or barricades shall be used.

(36) No tree or danger tree shall be felled by one cutter where and when the assistance of a fellow cutter is necessary to minimize the dangers or hazards involved.

(37) Cutters shall be in the clear as the tree falls.

(38) Undercuts and backcuts shall be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape to be in the clear from a falling tree.

(39) When falling, a positive means, method or procedure that will prevent accidental cutting of necessary holding wood shall be established and followed. Particular care shall be taken to hold enough wood to guide the tree or snag and prevent it prematurely slipping or twisting from the stump.

(40) The undercut shall not be made while buckers or other workers are in an area into which the tree could fall.

(41) Matchcutting should not be permitted and shall be prohibited for trees larger than six inches in diameter breast high.

(42) The tree (and root wad if applicable) shall be carefully examined to determine which way the logs (and root wad) will roll, drop, or swing when the cut is completed. No worker shall be allowed in this danger zone during cutting.

(43) Logs shall be completely bucked through whenever possible. If it becomes hazardous to complete a cut, then the log shall be marked and identified by a predetermined method. Rigging crews shall be instructed to recognize such marks and when possible, cutters shall warn the rigging crew of locations where such unfinished cuts remain.

(44) Cutters shall give timely warning to all persons within range of any log which may have a tendency to roll after being cut off.

(45) Propping of logs or trees as a means to protect workers downslope from the logs or trees, shall be prohibited.

(46) Logs shall not be jackstrawed when being bucked in piles or decks at a landing.

(47) The chain saw shall not be used to cut directly over head.

(48) The chain saw operator shall be certain of footing before starting to cut. The chain saw shall not be used in a position or at a distance that could cause the operator to become off-balance, to have insecure footing, or to relinquish a firm grip on the saw.

(49) Domino felling of trees, including danger trees, is prohibited. The definition of domino felling does not include the felling of a single danger tree by felling another single tree into it.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-531 ((Falling and bucking—))Power saws and power equipment. (1) Operators shall inspect chain saws daily to ensure that handles and guards are in place, and controls and other moving parts are functional.

(a) Each chain saw placed into initial service after February 9, 1995, shall be equipped with a chain brake and, shall otherwise meet the requirements of the ANSI B175.1-1991 "Safety Requirements for Gasoline-Powered Chain Saws" and the requirements of this chapter; and

(b) Each chain saw placed into service before February 9, 1995, shall be equipped with a protective device that minimizes chain saw kickback i.e., reduced kick back bar, chains, bar tip guard or chain brake; and

(c) No chain saw kick back device shall be removed or otherwise disabled.

(2) Fuel outdoors. The chain saw shall be fueled outdoors at least fifty feet (15.2 meters) from persons smoking or from other potential sources of ignition.

(3) Chain saws shall not be operated unless equipped with a muffler.

(4) ((Idler end of power chain saw blade on all two-man machines shall be adequately guarded-)) Chain saws shall be operated and adjusted in accordance with the manufacturer's instructions and the requirements of this chapter.

(5) Combustion-engine type power saws shall be equipped with a positive means of stopping the engine.

(6) Electric power saws shall be equipped with an automatic (deadman type) control switch. Saws with faulty switches shall not be used.

(7) Unless the carburetor is being adjusted, the saw shall be shut off before any adjustments or repairs are made to the saw, chain or bar.

(8) Combustion-engine type power saws shall be equipped with a clutch.

(9) The chain saw clutch shall be properly adjusted to prevent the chain from moving when the engine is at idle speed.

(10) Power chain saws with faulty clutches shall not be used.

(11) The bar shall be handled only when the power chain saw motor is shut off.

(12) Power chain saws shall have the drive end of the bar guarded.

(13) Combustion-engine driven power saws shall be equipped with an automatic throttle control (deadman type), which will return the engine to idle speed upon release of the throttle (idle speed is when the engine is running and the chain does not rotate on the bar).

(14) When falling of tree is completed, the power saw motor shall be at idle or shutoff. ((Where terrain or brush creates a hazardous condition, the power saw motor shall be shutoff while the operator is traveling to the next cut.)) The power saw motor shall also be shutoff while fueling.

(15) Saw pinching and subsequent chain saw kickback shall be prevented by using wedges, levers, guidelines, and saw placement, or by undercutting.

(16) ((Cutters shall not use the chain saw to cut directly overhead or at a distance that would require the operator to

~~relinquish a safe grip on the saw.)~~ The chain saw shall be started at least 10 feet (3 m) from the fueling area.

(17) Reserve fuel shall be handled and stored in accordance with WAC (~~296-24-37009~~) 296-54-515(13).

(18) Hand-held files shall be equipped with a handle.

(19) Only experienced cutters shall buck windfalls.

(20) The chain saw shall be started on the ground or where otherwise firmly supported. Drop starting a chain saw is prohibited.

(21) Chain saws equipped with chain brakes shall be started with the chain brake engaged.

(22) The chain saw shall be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.

(23) The chain saw shall be carried in a manner that will prevent operator contact with the cutting chain and muffler.

(24) The chain saw shall be shut off or at idle before the feller starts to retreat.

(25) The chain saw shall be shut down or the chain brake shall be engaged whenever a saw is carried further than 50 feet (15.2 m). The chain saw shall be shut down or the chain brake shall be engaged when a saw is carried less than 50 feet if conditions such as, but not limited to, the terrain, underbrush and slippery surfaces, may create a hazard for an employee.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-535 Tree pulling. (1) The cutter shall be responsible for determining if a tree can be safely pulled. If, for any reason, the cutter believes the tree pulling cannot be completed safely, the tree shall be conventionally felled.

(2) When using radio positive radio communications shall be maintained at all times between the tree pulling machine and cutter when tree pulling. An audible signal shall be blown when the initial pull is made on the tree and the line is tightened. Hand signals, in lieu of radio communications and an audible signal, may be used only if the cutter is clearly visible to the tree puller operator.

(3) A choker, (~~choker~~) with bell, or a line and sleeve shackle shall be used as the means of attachment around the tree when tree pulling. The bight on the line shall be only that necessary to hold the choker or line around the tree.

(4) The tree pulling machine shall be equipped with a torque converter, fluid coupler, or an equivalent device to insure a steady even pull on the line attached around the tree.

(5) The tree pulling line shall have as straight and direct path from the machine to the tree as possible. Physical obstructions which prevent a steady even pull on the tree pulling line shall be removed or the line shall be rerouted.

(6) Siwashing, in lieu of a block, in order to change tree pulling lead, is prohibited.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-537 Mechanized falling. (1) When using selfpropelled mobile falling devices, a watchman and/or warning signs shall be posted at appropriate locations indicating that devices of this type are being used to fall trees.

(2) Self-propelled mobile falling equipment used for falling trees shall be designed in a manner or shall have auxiliary equipment installed which will cause the tree to fall in the intended direction.

(3) Mechanized falling shall be conducted in such a manner as not to endanger persons or equipment.

(4) Where a mechanized feller incorporates a cab structure having a single entrance door, it shall be equipped with an alternate means of escape from the cab should the door be blocked in the event of vehicle rollover or fire. Cab doors shall be fitted with latches operable from both sides of the door.

(5) No employee shall approach a mechanical felling operation closer than two tree lengths of the trees being felled until the machine operator has acknowledged that it is safe to do so.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-539 Climbing equipment and passline.

(1) Standard climbing equipment shall be furnished by the employer; however, this shall not be construed to mean that the climber may not use (~~his own~~) personal equipment, provided it meets the following standards and is permitted by the employer. The climbing ropes shall be of steelcore type. The climber may fasten (~~his~~) climbing rope by passing it through "D" rings fastened to the belt and around his body before tying it to itself. When topping standing trees, it is recommended that a steel chain of 3/16-inch or larger, with appropriate fittings attached, shall be used in addition to the climbing rope. All climbing equipment shall be maintained in good condition. An extra set of climbing equipment shall be kept at the climbing operation and another person with climbing experience shall be present.

(2) A person shall ride only the passline to thread lines, oil blocks or to inspect rigging.

(3) No one shall work directly under a tree except when directed by the climber. Warning shall be given prior to intentionally dropping any objects or when objects are accidentally dropped.

(4) Running lines shall not be moved while the climber is working in the tree, except such "pulls" as (~~he~~) climber directs and are necessary for (~~his~~) the work.

(5) One experienced person shall be dispatched to transmit the climber's signals to the machine operator and shall not otherwise be occupied during the time the climber is in the tree, nor shall the machine operator be otherwise occupied while the climber is using the passline. The designated (~~signalman~~) signal person shall position (~~himself~~) themselves clear of hazards from falling, flying or thrown objects.

(6) Long or short splices and knots in passline are not permitted. Chains used in passlines shall be in good condition and shall not contain cold shuts or wire strands.

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(7) The climber shall be an experienced logger with proper knowledge of logging methods and the safety of rigging spar and tail trees.

(8) Trees shall not be topped during windy weather.

(9) At no time shall topping, rigging-up, or stripping work be done when visibility is impaired.

(10) When the friction lever and passline drum is on the opposite side of the machine from the operator, an experienced person shall operate the friction lever while the engineer operates the throttle. While being used, the passline drum shall be properly attended by another person to guide the passline onto the passline drum with a tool suitable for the purpose.

(11) The use of a gypsy drum for handling persons in the tree is prohibited.

(12) Danger trees leaning towards and within reach of landings, roads, rigging or work areas shall either be felled before the regular operations begin or work shall be arranged so that workers will not be exposed to hazards involved.

(13) Noisy equipment such as power saws, tractors and shovels shall not be operated around the area where a climber is working when such noise will interfere with the climber's signals.

(14) Climbing and passline equipment shall not be used for other purposes.

(15) Defective climbing equipment shall be immediately removed from service.

(16) The climber shall be equipped with a climbing equipment assembly having a breaking strength of not less than five thousand four hundred pounds.

The equipment shall include:

(a) A safety belt with double "D" rings;

(b) Steel spurs long and sharp enough to hold in any tree in which they are used; and

(c) A climbing rope made of wire-core hemp, wire or chain construction.

(17) When the climber is using a chain saw in the tree, the climbing rope shall be made of material that cannot be severed by the saw.

(18) Lineman hooks shall not be used as spurs.

(19) When power saws are used in topping or limbing standing trees, the weight of the saw shall not exceed thirty pounds.

(20) Tools used by the climber, except the power saw, shall be safely secured to ~~((his))~~ climbers belt when not in use.

(21) Snaps shall not be used on a climber's rope unless a secondary safety device between the belt and snap is used.

(22) A climber's rope shall encircle the tree before the climber leaves the ground except when the climber is riding the passline.

(23) While the climber is working in the tree, persons shall keep at sufficient distance from the tree to be clear of falling objects.

(24) When used, passline fair-leads shall be kept in alignment and free from fouling at all times.

(25) Spikes, used by the climber as a temporary aid in hanging rigging, shall be removed before the tree is used for logging.

(26) Loose equipment, rigging or material shall either be removed from the tree or securely fastened.

(27) All spar trees shall be equipped with passlines that shall:

(a) Be not less than 5/16-inch and not be over 1/2-inch in diameter;

(b) Not be subjected to any sawing on other lines or rigging, and kept clear of all moving lines and rigging;

(c) Be of one continuous length and in good condition with no splices, knots, molles, or eye-to-eye splices between the ends;

(d) Be long enough to provide three wraps on the drum before the climber leaves the ground.

(28) Drums used for passlines shall have sufficient flange depth to prevent the passline from running off the drum at any time.

(29) Passline chains shall:

(a) Be not less than 5/16-inch alloy or 3/8-inch high test chain and shall not contain cold shuts or wire strands;

(b) Be attached to the end of the passline with a screw-pin shackle, a slip-pin shackle with a nut and malle, or a ring large enough to prevent going through the pass block; and

(c) Be fitted with links or rings to prevent workers from being pulled into the passline block.

(30) Pass blocks shall:

(a) Be inspected before placing in each spar and the necessary replacements or repairs made before they are hung;

(b) Have the shells bolted under the sheaves;

(c) Have the bearing pin securely locked and nuts keyed or the block be of the type which positively secures the nut and pin;

(d) Equipped with sheaves not less than six inches in diameter; and

(e) Comply with applicable portions of WAC 296-54-543(6) pertaining to blocks.

(31) When workers are required to go up vertical metal spars, passlines, chains and blocks shall be provided and used.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-551 Yarding, loading ((and)), skidding and chipping machines—General requirements. (1) ~~((Yarding, loading and skidding machines shall be operated only by experienced authorized personnel, except that inexperienced personnel may operate machines in accordance with WAC 296-54-515(2).))~~ The employer shall assure that each machine, including any machine provided by an employee, is maintained in serviceable condition and the following:

(a) The employer shall assure that each machine, including any machine provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable machine shall be replaced before work is commenced.

(b) The employer shall assure that operating and maintenance instructions are available on the machine or in the area where the machine is being operated. Each machine operator and maintenance employee shall comply with the operating and maintenance instructions.

(c) Each machine shall be operated only from the operator's station or as otherwise recommended by the manufacturer.

(d) No employee shall ride on any load.

(2) Overhead protection and other barriers shall be installed to protect the operator from lines, limbs and other moving materials on or over all yarding, loading or skidding machines. ~~((Construction shall be so the view of the operator is not impaired. Barriers shall consist of metal screen constructed of 1/4 inch diameter woven wire material with maximum two inch openings or 3/4 inch diameter steel rod with eight inch maximum openings. Such barriers shall be installed no closer than four inches to the glass.))~~ The overhead covering of each cab shall be of solid material and shall extend over the entire canopy.

(3) When using a yarder, loader or skidding machine, the location of the machine or position of the yarder shall be such that the operator will not be endangered by incoming logs or debris.

(4) Logging machines and their components shall be securely anchored to their bases.

(5) A safe and adequate means of access and egress to all parts of logging machinery where persons must go shall be provided and maintained in a safe and uncluttered condition. Machine access systems, meeting the specifications of the Society of Automotive Engineers, SAE J185, June 1988, "Recommended Practice for Access Systems for Off-Road Machines," shall be provided for each machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance. Walking and working surfaces of each machine and machine work station shall have a slip-resistant surface to assure safe footing.

(6) Any logging equipment having a single cab entrance door, shall be equipped with an alternate means of escape from the cab should the door be blocked in the event of vehicle rollover or fire. Door latches shall be operable from both sides.

(7) Logging machines shall be kept free of flammable waste materials and any materials which might contribute to slipping, tripping or falling.

(8) Logging machine engines shall be stopped during inspection or repairing, except where operation is required for adjustment.

(9) Grab rails shall be provided and maintained in good repair on all walkways of stationary units elevated more than four feet. ~~((Walkway surfaces on such units shall be of the slip-proof type.))~~

(10) Standard safeguards shall be provided at every place on a machine where persons may be exposed to contact with revolving parts or pinchpoints during normal operations.

(11) To protect workers from exposure to the hazardous pinchpoint area between the rotating superstructure and the nonrotating undercarriage of any logging machine, signs shall be conspicuously posted on all sides of that type machine warning workers: "DANGER - STAY CLEAR." This requirement shall not apply when:

(a) The distance from the highest point of the undercarriage to the lowest point of the rotating superstructure is greater than eighteen inches. This applies only to that

portion of the rotating superstructure that swings directly over the undercarriage;

(b) The distance from the ground to the lowest point of the rotating superstructure is greater than five feet six inches. This applies only to that portion of the rotating superstructure that swings directly over the undercarriage; or

(c) On crawler-type track-mounted logging machines only, the rotating superstructure is positioned at a right angle to the tracks, and the distance from the side of the cab to the extreme end of the track is four feet or less. This exemption shall apply to side barricades only; barricades between the tracks at both ends of any crawler-type logging machine are required regardless of the right angle dimension.

(12) Items of personal property, tools or other miscellaneous materials shall not be stored on or near any logging machine if retrieval of such items would expose a worker to the hazardous pinchpoint referred to in subsection (11) of this section.

(13) Workers shall approach the hazardous pinchpoint area referenced in subsection (11) of this section, only after informing the operator of their intent and receiving acknowledgment ~~((from))~~ that the operator ~~((that he))~~ understands their intention. All such machines shall be stopped while any worker is in the hazardous pinchpoint area.

(14) A minimum distance of thirty-six inch clearance shall be maintained between the counterweight of a loading machine and trees, logs, banks, trucks, etc., while the machine is in operation. If this clearance cannot be maintained, suitable barricades with warning signs attached, similar to a standard guardrail, shall be installed to isolate the hazardous area. "DANGER—36 inch clearance" shall be marked in contrasting colors on sides and face of counterweight on shovels, loaders and other swing-type logging equipment. ~~((This requirement shall not apply when:~~

~~(a) The distance from the highest point of the undercarriage to the lowest point of the rotating superstructure is greater than 18 inches. This applies only to that portion of the rotating superstructure that swings directly over the undercarriage;~~

~~(b) The distance from the ground to the lowest point of the rotating superstructure is greater than five feet six inches. This applies only to that portion of the rotating superstructure that swings directly over the undercarriage; or~~

~~(c) On crawler-type track mounted logging machines only, the rotating superstructure is positioned at a right angle to the tracks, and the distance from the side of the cab to the extreme end of the track is four feet or less. This exemption shall apply to side barricades only; barricades between the tracks at both ends of any crawler-type logging machine are required regardless of the right angle dimension.))~~

(15) Guarding.

(a) Logging machines shall not be operated until all guards have been installed, safety devices activated and maintenance equipment removed.

(b) Each machine shall be equipped with guarding to protect employees from exposed moving elements, such as but not limited to, shafts, pulleys, belts on conveyors, and gears, in accordance with the requirements of this standard and chapter 296-24 WAC, Part C, Machinery and machine guarding.

(c) Each machine used for debarking, limbing and chipping shall be equipped with guarding to protect employ-

ees from flying wood chunks, logs, chips, bark, limbs and other material in accordance with the requirements of chapter 296-24 WAC, Part C, Machinery and machine guarding.

(16) Stationary logging machines and their components shall be securely anchored or otherwise stabilized to prevent movement (~~of the machine~~) while yarding or skidding.

(17) Ends of drum lines shall be securely fastened to the drum and at least three wraps shall be maintained on the drum at all times. (This rule does not apply to tractor winch lines.)

(18) Such units shall not be tied to any part of the towing unit, when they are being moved on truck and trailer units.

(19) Logs shall not be moved, swung or held over any persons.

(20) Brow logs in the loading or unloading area shall be blocked or secured to prevent movement. Log decks shall be maintained in a safe condition and shall not present a hazard of logs rolling or sliding on workers.

(21) Brakes shall be set and brake locking devices engaged on logging machines when the operator leaves his normal operating position.

(22) Guyline drum controls and outrigger controls shall be separated, color coded or marked in a manner that will prevent engaging of the wrong control.

(23) Exhaust systems.

(a) Engines not equipped with turbochargers shall comply with the department of natural resources chapter 332-24 WAC requirements for spark emitting equipment; and

(b) Each machine muffler provided by the manufacturer, or their equivalent, shall be in place at all times the machine is in operation; and

(c) Exhaust pipes shall be located or insulated to protect workers from accidental contact with the pipes or muffler and shall direct exhaust gases away from the operator and other persons.

(24) Glass on logging machines shall be safety glass or equivalent and shall be free of deposits of oil, mud, or defects that could endanger the operator or other persons. When transparent material is used to enclose the upper portion of the cab, it shall be made of safety glass or other material that the employer demonstrates provides equivalent protection and visibility.

(25) Broken or defective glass shall be removed and replaced.

(26) Where safety glass or equivalent, does not provide adequate operator protection from flying chokers, chunks, saplings, limbs, etc., an additional metal screen and/or barrier shall be provided over the safety glass. The operator's vision shall not be impaired. Barriers shall consist of 1/4-inch diameter woven wire material with maximum two inch openings, 3/4-inch diameter steel rod with eight inch maximum openings in any direction or barriers so designed and constructed to provide equivalent operator protection. Such barriers shall be installed no closer than four inches to the glass to enable keeping the glass clean.

(27) Except for hydraulic drums, brakes shall be installed on all logging machines and maintained in effective working condition. Brake levers shall be provided with a ratchet or other effective means for securely holding drums.

Brakes shall be tested prior to putting the machine in operation. If defective, they shall be repaired immediately.

(28) A stable base shall be provided under outriggers or leveling pads and a means shall be provided to hold outriggers in both the retracted and extended position.

(29) Abrasive contact with hydraulic hose, tubing or fittings shall be eliminated before further use and defective hydraulic hoses, lines and fittings shall be replaced.

(30) When moving logging machines, the driver or operator shall have a clear and unobstructed view of the direction of travel. When this is not possible, a signalperson with a clear and unobstructed view of the direction of travel shall be designated and used to direct movement of the machine.

(31) Where a signalperson is used, the equipment operator shall move the equipment only on signal from the designated signalperson and only when the signal is distinct and clearly understood.

(32) When moving power units, persons other than the operator and the person in charge shall not be permitted to ride thereon.

(33) All obstructions which may reach the operator while moving machines, shall be removed.

(34) Only shackles with threaded pins shall be used for connecting moving rigging.

(35) Anchors used for moving power units shall be carefully chosen and must be stable.

(36) When snubbing a machine down a steep slope, use the mainline for snubbing and pull with the haulback whenever possible.

(37) Self-powered mobile logging machines of the type where towers or spars can be raised, shall not travel on steep road grades unless they are securely snubbed or towed.

(38) When moving, all persons working on the landing shall stay in the clear of the machine and shall inform the operator of their intention to approach or be near the machine.

(39) Service brakes shall be provided on crawler crane-type logging machines that will bring the machine to a complete stop from normal travel speeds.

(40) A traction lock or brake or an equivalent locking and braking system shall be provided on crawler crane-type machines that is capable of holding the machine stationary under normal working conditions, and on any grade the machine is capable of negotiating.

(41) No modifications or additions which affect the capacity or safe operation of the equipment shall be made by the employer without written approval of the manufacturer or a qualified engineer. If such modifications or changes are made, the capacity, operation and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no case shall the original safety factor of the equipment be reduced.

(42) Equipment shall be classed and used according to the manufacturer's rating. Where low gear ratios or other devices are installed to increase the line pull in accordance with subsection ~~((42))~~ (41) of this section, the size of the rigging shall be increased accordingly so that it will safely withstand the increased strains.

(43) Every tractor, skidder, front-end loader, scraper, grader and dozer shall be equipped with a roll-over protec-

tive structure (R.O.P.S.). Such structures shall be installed, tested and maintained in accordance with:

(a) WAC 296-155-950 through 296-155-965 of the safety standards for construction, if manufactured prior to ~~(the effective date of this chapter)~~ October 21, 1979.

(b) The society of automotive engineers SAE 1040a-1975, "performance criteria for roll-over protective structures (ROPS) for earthmoving, construction, logging and industrial vehicles," if manufactured after the effective date of this chapter.

(c) Each log stacker, log loader and mechanical felling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995, shall be equipped with rollover protective structure (ROPS).

(d) The employer shall replace ROPS which have been removed from any machine.

(e) ROPS shall be tested, installed, and maintained in serviceable condition.

(f) Each machine manufactured after August 1, 1996, shall have ROPS tested, installed, and maintained in accordance with the Society of Automotive Engineers SAE J1040, April 1988, "Performance Criteria for Rollover Protective Structures (R.O.P.S) for Construction, Earthmoving, Forestry, and Mining Machines."

(44) The ROPS shall be of sufficient height and width so that it will not impair the movements of the operator or prevent his immediate escape from the vehicle in emergencies and shall allow as much visibility as possible. Clearance above the deck and the ROPS of the vehicle at points of egress shall not be less than fifty-two inches (1.3 meters).

(45) Certified roll-over protective systems shall be identified by a metal tag permanently attached to the ROPS in a position where it may be easily read from the ground. The tag shall be permanently and clearly stamped, etched or embossed indicating the name and address of the certifying manufacturer or registered professional engineer, the ROPS model number (if any) and the vehicle make, model or serial number the ROPS is designed to fit.

(46) Roll-over protective structure systems shall be maintained in a manner that will preserve their original strength. Welding shall be performed by qualified welders only. (A qualified welder is defined under "welder qualification" in American Welding Society A.W.S. A3.0-69.)

(47) Every tractor, skidder, front-end loader, log stacker, forklift truck, scraper, grader and dozer shall be equipped with a FOPS. Such structures shall be installed, tested and maintained in accordance with:

(a) The society of automotive engineers SAE J231-1971, "minimum performance criteria for falling object protective structures (F.O.P.S.) prior to February 9, 1995."

(b) Society of automotive engineers SAE J231, January 1981, "minimum performance criteria for falling object protective structures (FOPS) for each tractor, skidder, log stacker, log loader and mechanical felling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995."

(c) The employer shall replace FOPS which have been removed from any machine.

(48) Vehicles equipped with ROPS or FOPS as required in subsections (43) and (47) of this section, shall comply with the society of automotive engineers SAE J397a-1972, "deflection limiting volume for laboratory evaluation of roll-

over protective structures (ROPS) and falling object protective structures (FOPS) of construction and industrial vehicles." Vehicles placed into initial service after February 9, 1995, shall meet the requirements of SAE J397-1988.

(49) The opening in the rear of the ROPS on the crawler or rubber-tired tractors (skidders) shall be covered with 1/4-inch diameter woven wire having not less than 1-1/2-inches or more than 2-inch mesh, or material which will afford equivalent protection for the operator. The covering shall be affixed to the structural members so that ample clearance is provided between the screen and the back of the operator. Structural members shall be free from projections which would tend to puncture or tear flesh or clothing. Suitable safeguards or barricades shall be installed, in addition to the screen, to protect the operator when there is a possibility of being struck by any material that could enter from the rear.

(50) Crawler and rubber-tired tractors (skidders) working in areas where limbs or brush may endanger the operator shall be guarded. Shear or deflector guards shall be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy. Open mesh material with openings of a size that will reject the entrance of an object larger than 1-3/4-inches in diameter, shall be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc. entering the cab area. Deflectors shall also be installed ahead of the operator to deflect whipping saplings and branches. These shall be located so as not to impede ingress or egress from the compartment area. The floor and lower portion of the cab shall be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(51) Enclosures for agricultural and industrial tractors manufactured after September 1, 1972, shall be constructed, designed and installed as detailed in the society of automotive engineers technical report J168. Each machine manufactured after August 1, 1996, shall have a cab that is fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its lease dimension. The cab may be enclosed with other material(s) where the employer demonstrates such material(s) provides equivalent protection and visibility. Exception: Equivalent visibility is not required for the lower portion of the cab where there are control panels or similar obstructions in the cab, or where visibility is not necessary for safe operation of the machine.

~~((b))~~ (52) All bidirectional machines, such as rollers, compactors, front-end loaders, log stackers, log loaders, bulldozers, shovels, and similar equipment, shall be equipped with a horn distinguishable from the surrounding noise level, which shall be operated as needed when the machine is moving in either direction. The horn shall be maintained in an operative condition.

~~((b))~~ (53) No employer shall permit earthmoving, compacting, or yarding equipment, which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.

(54) Overhead guards. Each forklift shall be equipped with an overhead guard meeting the requirements of the American Society of Mechanical Engineers, ASME B56.6-1992 (with addenda), "Safety Standard for Rough Terrain Forklift Trucks."

(55) Chipping (in-woods locations).

(a) Chipper access covers or doors shall not be opened until the drum or disc is at a complete stop.

(b) Infeed and discharge ports shall be guarded to prevent contact with the disc, knives, or blower blades.

(c) The chipper shall be shut down and locked out in accordance with the requirements of chapter 296-24 WAC, Part A-4 when an employee performs any servicing or maintenance.

(d) Detached trailer chippers shall be chocked during usage on any slope where rolling or sliding of the chipper is reasonably foreseeable.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-553 Yarding, loading and skidding machines—Mobile towers and boom-type yarding and loading machines. (1) Portable (mobile) tower specification plate. A specification plate shall be permanently attached to the base of each portable (mobile) tower so it can be easily read by a person standing on the ground or on the base platform. It shall contain the following information:

(a) Name and address of manufacturer and model number;

(b) The maximum diameter of the mainline or skyline for which the unit is designed and size of haulback and mainline to be used together if drums are interlocking or automatic tensioning type;

(c) The number and size of guylines required to stabilize the unit;

(d) The maximum length and capacity of a loading boom or similar equipment which may be attached if the structure is engineered for such;

(e) If the unit is designed for use on any skyline system of logging; and

(f) Maximum degree of inclination from vertical at which the spar (tower) may be used.

(2) The critical parts of portable spars (towers) shall be inspected by a qualified person at reasonable intervals while in service and each time the spar (tower) is lowered. If indication of failure or weakness is noted or suspected, the part shall be inspected by an approved method and found to be safe, or it shall be repaired or replaced before the operation is allowed to proceed.

(3) Blocks and fair leads shall be so located that there will be no chafing or sawing of any line or part of the structure.

(4) Guyline attachments.

(a) Power guylines used for stabilizing any unit may be choked around an adequately notched stump if using a shackle or approved choker attachment. Three full wraps or more must be placed around an adequately notched stump to secure the guyline if clamps are used. Guyline extensions shall be properly shackled to the guylines.

(b) When using a deadman anchor to support a guyline, the connection shall be made by properly shackling both eyes of the anchor strap to the guyline.

(c) If guylines on metal spars or towers are not power guylines, they shall be secured to stumps or anchorages in the same manner as guylines on wood spar trees.

(5) Power driven devices shall be securely anchored when used to tighten guylines. Holding of such devices manually is prohibited.

(6) Machine stabilization.

(a) Machines or equipment shall be stabilized by their design or the attachment of guylines or other devices which will prevent the machine from overturning. Machine operators shall be advised of the stability limitations of the equipment.

(b) If stabilization of a machine is dependent upon the use of hydraulic outriggers, a pilot operated hydraulic check valve or other locking device shall be installed to prohibit the outrigger from retracting in case a hydraulic line breaks, except when proper blocking is provided.

(7) A qualified person shall direct each raising or lowering of a portable spar or tower.

(8) All persons not engaged in the actual raising or lowering of portable spars or towers shall stay in the clear during such operations.

(9) Guylines required in rigging spars or towers shall be evenly spooled to prevent fouling.

(10) Portable spars or towers shall be leveled to provide even line spooling and avoid excessive stress on component parts.

(11) The portable spar or tower shall be lowered or supported so the stability of the machine is not impaired during movement of the portable spar or tower.

(12) Guylines of portable spars or towers shall not be anchored to standing trees if the unit is used for yarding as a head tree.

(13) Timbers used for masts or booms shall be straight-grained, solid, and capable of withstanding the working load.

(14) Boom points of timber booms shall be equipped with metal straps, plates, or other devices as needed to properly secure eyebolts and fittings used to support lines, blocks, or other rigging.

(15) All mobile vehicles on which yarding equipment, towers, spars, masts or booms are installed, shall be maintained in a safe operating condition.

(16) A-frames shall be secured against displacement and the tops shall be securely bolted or lashed to prevent displacement.

(17) When any portable-type tower, A-frame or spar is used, the base shall be securely and solidly supported.

(18) All loading, unloading and skidding machines shall be equipped with a horn or whistle which is audible above the surrounding noise level. Such horn or whistle shall be maintained in an operative condition.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-555 Yarding—General requirements.

(1) Workers shall be alert and be positioned in the clear where they will not be exposed to the hazards of moving logs, saplings, root wads, chunks, rigging, or any other

material which might be put in motion by the rigging or turn, before the "go ahead" signal is given. They shall remain in the clear at all times while the rigging is moving.

(2) No person shall be near rigging which is stopped at a hangup, until the rigging has been slacked to reduce the hazard.

(3) No person shall stand or remain within the bight of any running line, nor in a position where he could be struck by a line were it to break or come loose.

(4) Whenever possible, chokers shall be set from the uphill side of a log. Persons shall not be on the lower side of a log which appears to be unstable or likely to roll.

(5) Wire rope used for chokers shall not exceed seventy-five percent of the breaking strength of the mainline.

(6) Chokers shall be placed near the end of the log/tree whenever possible.

(7) When pulling lines, do not stand close to fair leads or blocks.

(8) Lines shall not be guided on drums with hands or feet. The use of a bar or equivalent means is recommended.

(9) Yarding with more than one unit on any one head spar is prohibited.

(10) The angle between the power unit, the high lead block, and the mainline road shall not exceed a square lead on rigged spars. When using portable spars or towers, the location of the machine or position of the operator shall be such that the operator shall not be endangered by incoming logs.

(11) When there is danger of tail block straps slipping up or off the stump or tree, the stump or tree shall be adequately notched or the line properly wrapped and secured. When the tail tree or stump is not secure, it shall be tied back.

(12) When yarding is being done during the hours of darkness, the area shall be provided with illumination which will allow persons to safely perform their duties. The source of illumination shall be located and directed creating a minimum of shadows and glare. If using a portable tail-hold, lights shall be directed on the equipment to allow the person to visually ascertain that the tail-hold equipment remains stabilized.

(13) No person shall be required or allowed to ride on a turn of logs or rigging excepting the passline. The practice of holding on to moving rigging or chokers to assist a person by being pulled uphill shall be prohibited.

(14) Wire rope shall be wound evenly on the drum and not be allowed to lap one layer on another in an irregular manner. Sheaves shall be smooth and free from defects that could cause rope damage.

(15) Chaser shall be sure that turns are safely landed before approaching to remove the chokers.

(16) Signaling machine operator at landings by throwing bark, chips or other material in the air is prohibited. Whistle or hand signals shall be used at all times.

(17) Logs shall not be landed while loaders or chasers are working in the chutes. Logs shall not be removed from yarder tree by the loader or tractors while the chaser is unhooking a turn from the yarder.

(18) Landings shall be as level as possible and of sufficient size to safely accommodate the majority of type turns to be yarded. At least two-thirds of the log shall rest on the ground or other substantial material when landed.

Logs shall be set on the ground or deck and not dropped when being landed. Long sticks shall be safely removed before additional logs are landed.

(19) Chokers shall not be used on a grapple system when the yarder operator cannot clearly see the persons setting the choker, unless conventional whistle signals are used.

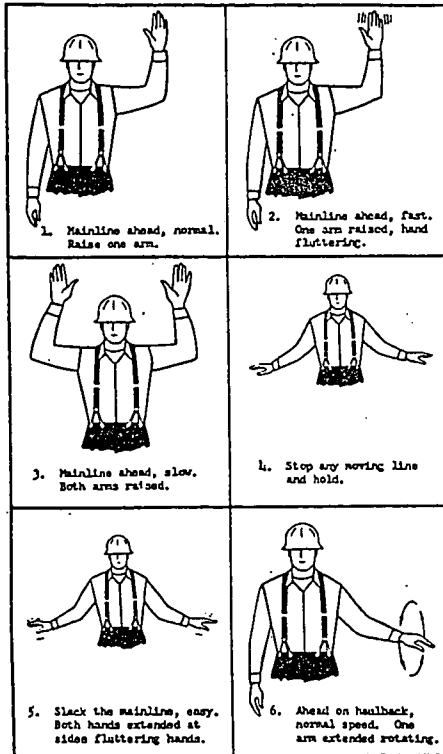
(20) Landings shall be free of root wads, limbs, tops, etc., that constitute a safety hazard.

(21) When shorter logs are yarded in the same turn with long sticks, the shorter logs shall be landed and chokers released before the long stick choker is released.

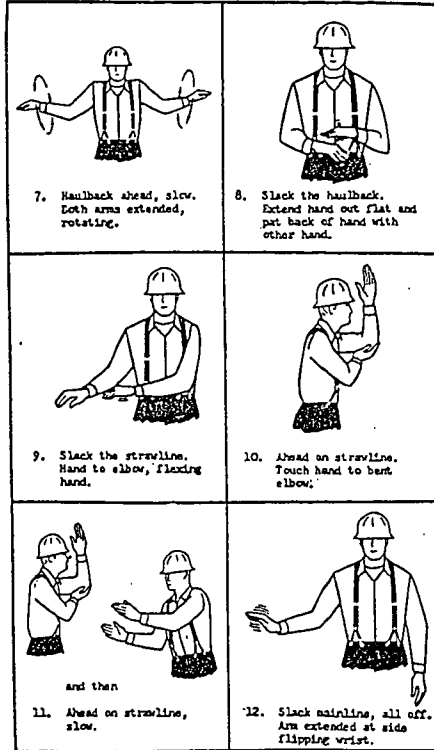
Note: See Figures No. 4-A and 4-B for Standard Hand Signals for High Lead Logging.

(22) Each yarded tree/log shall be placed in a location that does not create a hazard for an employee and an orderly manner so that the trees/logs are stable before bucking or limbing is commenced.

STANDARD HAND SIGNALS FOR HIGH LEAD LOGGING



STANDARD HAND SIGNALS FOR HIGH LEAD LOGGING



PROPOSED

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-557 Yarding—Tractors ((and)) skidders and rough terrain log loaders (to include feller bunchers and tree shears). (1) Operators shall ensure that all persons are safely in the clear before initiating or continuing the movement of any mobile equipment. The machine shall be operated at such a distance from employees and other machines such that operation will not create a hazard for an employee.

(2) No person shall ride on any mobile equipment, except where adequate and protected seats, or other safe facilities have been provided. No employee other than the operator shall ride on any mobile machine unless seating, seat belts and other protection equivalent to that provided for the operator are provided.

(3) While in use, tractors and skidders shall be maintained in a safe operable condition, with all guards in proper places.

(4) No person shall be under a tractor or other mobile equipment, or be placed in a hazardous position around the equipment without first making certain it cannot move or be moved by another person.

(5) Prior to working on tractor or skidder blades, arches, or other equipment, the equipment must be blocked up lowered to the ground or otherwise secured against slipping or falling. ~~((Prior to working on hydraulic equipment, the pressure shall be relieved.))~~ If a hydraulic or pneumatic storage device can move the moving elements such as, but

not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element shall be discharged as specified by the manufacturer.

(6) When making repairs to tractor or skidder equipment, such as blades, arches, etc., the engine shall be stopped. The engine may be run when necessary for making adjustments to the engine or equipment.

(7) Operators shall operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(8) The following safe work procedures shall be adhered to:

(a) When hobo logs are picked up with a log turn, the turn shall be dropped to free the hobo.

(b) No line shall be allowed to trail behind the tractor or skidder where it may hang up and snap forward.

(c) ~~((Winching at a severe angle, which could cause a hang-up to upset the machine, shall be avoided.))~~ Each machine shall be positioned during winching so the machine and winch are operated within their design limits.

(d) Grapple skidded log turns shall be evenly bunched with squared butt ends, securely grappled and safely positioned before travel commences.

(e) Before climbing or descending grades, the proper gear shall be selected to allow the engine to govern the tractor speed.

(f) On side hills, an abrupt turn uphill shall be avoided. The tractor or skidder shall be backed downhill first then

turned uphill. The turn may be slacked off as necessary to permit this maneuver.

(g) The operator shall, before leaving a tractor or skidder, lower the blade to the ground and apply the parking brake.

(h) Tractor or skidder speed shall be adjusted to the circumstances prevailing. Excessive or uncontrolled speed shall be avoided.

(i) Winch lines on logging tractors or skidders shall be attached to the drum with a break-away device.

(9) When hand signals are required for giving instructions to the tractor or skidder operator, the signals as illustrated in Figure No. 5 shall be used.

(10) ~~((Tractor and skidder brakes shall stop and hold the machine on any grade over which the machine is being operated. They shall be effective whether or not the engine is running and regardless of the direction of travel.))~~ Brakes.

(a) Service brakes shall be sufficient to stop and hold each machine and its rated load capacity on the slopes over which it is being operated. They shall be effective whether or not the engine is running and regardless of the direction of travel.

(b) Each machine placed into initial service on or after September 8, 1995, shall also be equipped with back-up or secondary brakes that are capable of stopping the machine regardless of the direction of travel or whether the engine is running; and parking brakes that are capable of continuously holding a stopped machine stationary.

(11) Tractors and skidders shall be provided with a brake locking device that will hold the machine indefinitely on any grade on which it is being operated.

(12) Operating a tractor or skidder with defective steering or braking devices is prohibited.

(13) Arches shall be equipped with line guards.

(14) Where tractor and skidder operators or helpers, because of the nature or their work duties, are required to wear calk soled footwear, the decks and operating foot controls shall be covered with a suitable nonslip material.

(15) Glass used in windshields or in cabs shall be of "safety glass." Broken or cracked glass shall be replaced as soon as practical. Barriers shall be provided, as needed, to protect the glass from being broken by using screen, bars or other material. The protective material shall be a type that will not create a hazard by undue impairment of the operators' vision.

(16) Barriers shall be constructed of at least 1/4-inch diameter woven wire with two inch maximum openings or other material providing equivalent protection. The barrier shall be installed at least four inches from the glass to provide space to clean the glass.

(17) Enclosed-type cabs installed on mobile equipment shall have two means of exit. One may be deemed as an emergency exit and be available for use at all times, regardless of the position of the side arms or other movable parts of the machine. (An easily removable window will be acceptable as the emergency exit if it is of adequate size for a person to readily exit through.)

~~(18) ((Seat belts shall be installed on tractors and other mobile equipment equipped with a roll over protective system and shall be worn by the operator and passenger(s) at all times the vehicle is in motion. The seat belts and assemblies shall be designed, constructed and maintained to~~

~~conform to the requirements specified in the society of automotive engineers technical report J386 or J333a. Seat belts need not be provided for equipment which is designed for stand-up operations.~~

~~(19) If the equipment operator and person in charge of the jobsite agree that life safety of the operator is jeopardized by wearing a seat belt, the seat belt need not be worn.))~~ Before the operator leaves the operator's station of a machine, it shall be secured as follows:

(a) The parking brake or brake locks shall be applied;

(b) The transmission shall be placed in the manufacturer's specified park position; and

(c) Each moving element such as, but not limited to blades, buckets, saws and shears, shall be lowered to the ground or otherwise secured.

(19) No load shall exceed the rated capacity of the pallet, trailer, or other carrier.

~~(20) Seat belts required by ((subsection (18) of this section,))~~ WAC 296-54-515(19) shall have buckles of the quick release type, designed to minimize the possibility of accidental release.

(21) Before a tractor or skidder is started or moved, the operator shall be certain nothing is in the way that could be set in motion by the movement of the machine thereby endangering persons.

(22) A log or turn shall not be moved until all persons are in the clear (behind the turn and on the uphill side on sloping ground).

~~(23) ((Before the engine is shut down, the brake locks shall be applied and all elements such as blades, buckets, grapples and shears shall be lowered to the ground.))~~ Towed equipment, such as but not limited to, skid pans, pallets, arches, and trailers, shall be attached to each machine or vehicle in such a manner as to allow a full ninety degree turn; to prevent overrunning of the towing machine or vehicle; and to assure that the operator is always in control of the towed equipment.

(24) Tractors or skidders shall not be operated within a radius of two tree heights of trees being felled unless called upon by the cutter or faller to ground lodged trees. All cutters shall be notified of the tractor or skidder entrance into the area and all felling within two tree lengths of the tractor or skidder shall be stopped.

(25) Except where electrical distribution and transmission lines have been de-energized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated proximate to power lines only in accordance with the following:

(a) For lines rated 50 kV or below, minimum clearance between the lines and any part of the equipment or machine shall be ten feet;

(b) For lines rated over 50 kV, minimum clearance between the lines and any part of the equipment or machine shall be ten feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet;

(c) In transit with no load and boom or extended equipment lowered, the equipment clearance shall be a minimum of four feet for voltages less than 50 kV, and ten

feet for voltages over 50 kV up to and including 345 kV, and sixteen feet for voltages up to and including 750 kV;

(d) A person shall be designated to observe clearance of the equipment and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means;

(e) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate it is not an energized line and it has been visibly grounded.

(26) Log piles and decks shall be located and constructed to provide working areas around them that will accommodate the safe movement of personnel and machinery.

(27) Braking systems required by subsection (10) of this section, shall be capable of stopping the equipment fully loaded as specified in the society of automotive engineers technical reports listed in subdivisions (a), (b), (c) or (d) of this subsection and shall be installed by June 30, 1973. All rubber-tired tractors or other types of mobile equipment listed below, manufactured after the effective date of these standards, shall have braking systems and requirements specified in the applicable technical reports of the society of automotive engineers as follows:

(a) Brake systems for off-highway, rubber-tired, self-propelled scrapers shall meet or exceed the requirements outlined in SAE technical report J319b.

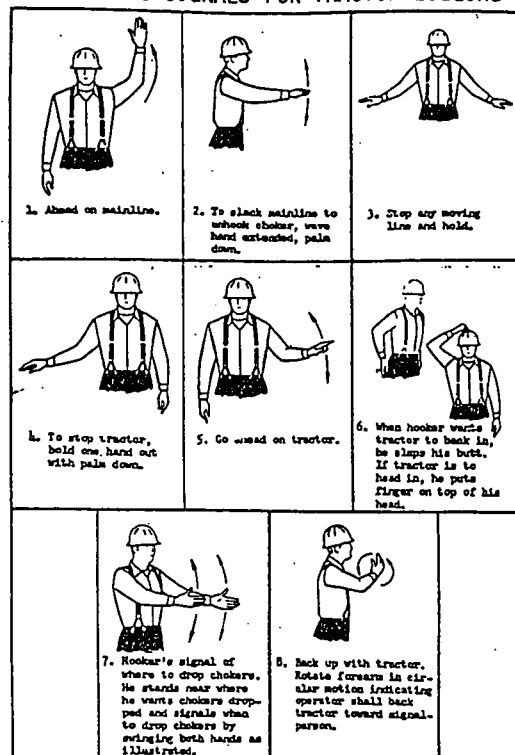
(b) Brake systems for off-highway, rubber-tired, front-end loaders, log stackers and dozers (skidders) shall meet or exceed the requirements outlined in SAE technical report J237.

(c) Brake systems for rubber-tired, self-propelled graders shall meet or exceed the requirements outlined in SAE technical report J236.

(d) Brake systems for off-highway trucks and wagons shall meet or exceed the requirements outlined in SAE technical report J166.

(28) The yarding machine or vehicle, including its load, shall be operated with safe clearance from all obstructions.

STANDARD SIGNALS FOR TRACTOR LOGGING



AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-54-559 Yarding—Helicopters and helicopter cranes. (1) Helicopters and helicopter cranes shall comply with any applicable regulations of the Federal Aviation Administration.

(2) Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.

(3) A take-off path from the log pickup point shall be established, and shall be made known to all workers in that area before the first turn of logs is moved.

(4) The helicopter flight path to and from the drop zone shall be designated and no equipment or personnel (other than flight personnel necessary to assist landing and take-off) will occupy these areas during helicopter arrival or departure.

(5) The approach to the landing shall be clear and long enough to prevent tree tops from being pulled into the landing.

(6) The helicopter shall not pass over an area in which cutters are working at a height which would cause the rotor wash to inhibit a cutter's ability to safely control a tree or dislodge limbs.

(7) Drop zones shall be twice the nominal length of logs to be landed.

(8) The drop zone shall be no less than one hundred twenty-five feet from the loading or decking area.

(9) Separate areas shall be designated for landing logs and fueling the helicopter(s).

(10) The yarding helicopter shall be equipped with a siren to warn workers of any hazardous situation.

(11) Workers shall remain in the clear as chokers are being delivered, and under no circumstances will workers move under the helicopter that is delivering the chokers or take hold of the chokers before they have been released by the helicopter.

(12) Log pickup shall be arranged in a manner that the hook up crew will not work on slopes below felled and bucked timber.

(13) If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs.

(14) Landing crew shall be in the clear before logs are dropped.

(15) One end of all the logs in the turn shall be touching the ground and lowered to an angle of not more than 45° from the horizontal before the chokers are released.

(16) Logs shall be laid on the ground and the helicopter will be completely free of the choker(s) before workers approach the logs.

(17) If the load will not release from the hook, the load and the hook shall be on the ground before workers approach to release the hook manually.

(18) Loads shall be properly slung. Tag lines shall be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swaged eyes, or equivalent means shall be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

(19) All electrically operated cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(20)(a) Personal protective equipment for employees receiving the load shall consist of complete eye protection and hard hats secured by chinstraps, and high visibility vests or outer garments.

(b) Loose-fitting clothing likely to flap in the downwash, and thus be snagged on hoist line, shall not be worn.

(21) Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. All loose gear within one hundred feet of the place of lifting of the load, depositing the load, and all other areas susceptible to rotor downwash shall be secured or removed.

(22) Good housekeeping shall be maintained in all helicopter loading and unloading areas.

(23) The helicopter operator shall be responsible for size, weight, and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made.

(24) Employees shall not perform work under hovering craft except for that limited period of time necessary to guide, secure, hook and unhook loads. Regardless of whether the hooking or unhooking of a load takes place on the ground or other location in an elevated work position in structural members, a safe means of access and egress, to include an unprogrammed emergency escape route or routes,

shall be provided for the employees hooking or unhooking loads.

(25) Static charge on the suspended load shall be dissipated with a grounding device before ground personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.

(26) The weight of an external load shall not exceed the manufacturer's rating.

(27) Hoist wires or other gear, except for pulling lines or conductors that are allowed to "pay out" from a container or roll off a reel, shall not be attached to any fixed ground structure, or allowed to foul on any fixed structure.

(28) When visibility is reduced by dust or other conditions, ground personnel shall exercise special caution to keep clear of main and stabilizing rotors. Precautions shall also be taken by the employer to eliminate as far as practical reduced visibility.

(29) Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems. Hand signals shall be as shown in Figure 6.

(30) No unauthorized person shall be allowed to approach within fifty feet of the helicopter when the rotor blades are turning.

(31) Whenever approaching or leaving a helicopter with blades rotating, all employees shall remain in full view of the pilot and keep in a crouched position. Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(32) Sufficient ground personnel shall be provided, when required, for safe helicopter loading and unloading operations.

(33) There shall be constant reliable communication between the pilot, and a designated employee of the ground crew who acts as a signalperson during the period of loading and unloading. This signalperson shall be distinctly recognizable from other ground personnel.

(34) Open fires shall not be permitted in an area that could result in such fires being spread by the rotor downwash.

(35) Under no circumstances shall the refueling of any type helicopter with either aviation gasoline or Jet B (turbine) type fuel be permitted while the engines are running.

(36) Helicopters using Jet A (turbine-kerosene) type fuel may be refueled with engines running provided the following criteria is met:

(a) No unauthorized persons shall be allowed within fifty feet of the refueling operation or fueling equipment.

(b) A minimum of one thirty-pound fire extinguisher, or a combination of same, good for class A, B and C fires, shall be provided within one hundred feet on the upwind side of the refueling operation.

(c) All fueling personnel shall be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to utilize.

(d) There shall be no smoking, open flames, exposed flame heaters, flare pots or open flame lights within fifty feet of the refueling area or fueling equipment. All entrances to the refueling area shall be posted with "NO SMOKING" signs.

(e) Due to the numerous causes of static electricity, it shall be considered present at all times. Prior to starting

refueling operations, the fueling equipment and the helicopter shall be grounded and the fueling nozzle shall be electrically bonded to the helicopter. The use of conductive hose shall not be accepted to accomplish this bonding. All grounding and bonding connections shall be electrically and mechanically firm, to clean unpainted metal parts.

(f) To control spills, fuel shall be pumped either by hand or power. Pouring or gravity flow shall not be permitted. Self-closing nozzles or deadman controls shall be used and shall not be blocked open. Nozzles shall not be dragged along the ground.

(g) In case of a spill, the fueling operation shall be immediately stopped until such time as the person-in-charge determines that it is safe to resume the refueling operation.

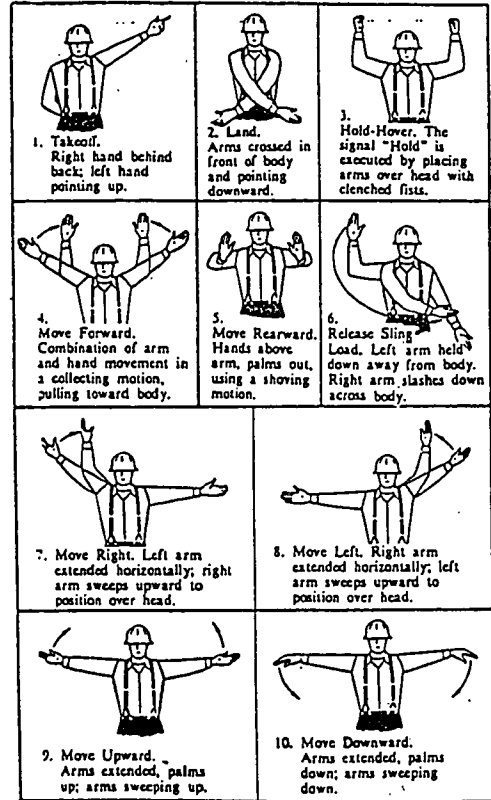
(h) When ambient temperatures have been in the 100 degree F. range for an extended period of time, all refueling of helicopters with the engines running shall be suspended until such time as conditions become suitable to resume refueling with the engines running.

(37) Helicopters with their engines stopped being refueled with aviation gasoline or Jet B (turbine) type fuel, shall also comply with subsection (36)(a) through (g) of this section.

(38) Hook on persons in logging operations shall wear contrasting colored hard hats, with chinstraps, and high visibility vests or outer garments to enable the helicopter operator to readily identify their location.

(39) Riding the load or hook of a helicopter is prohibited except in the case of an emergency with the proper safety gear.

HELICOPTER HAND SIGNALS

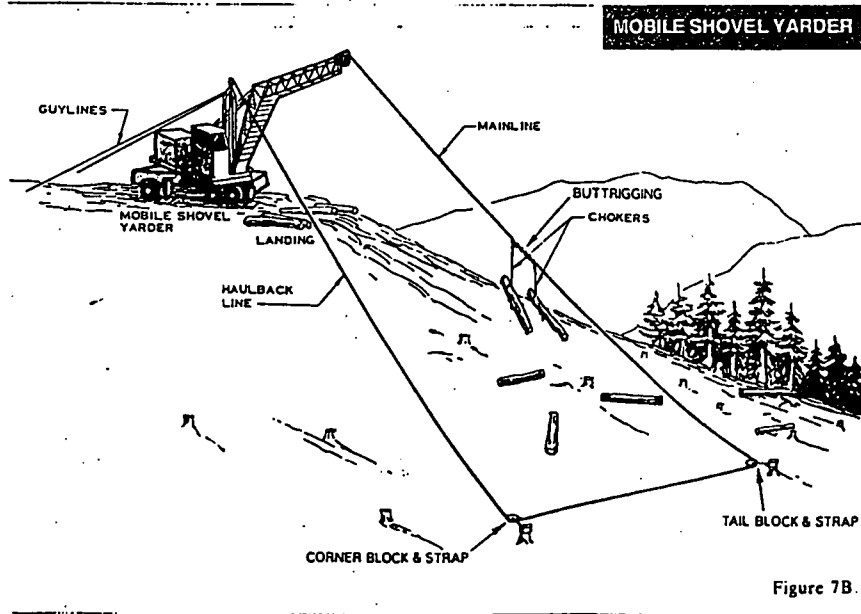


Note: See Figures No. 7-A through 7-P, for illustrations of various types of cable logging systems.

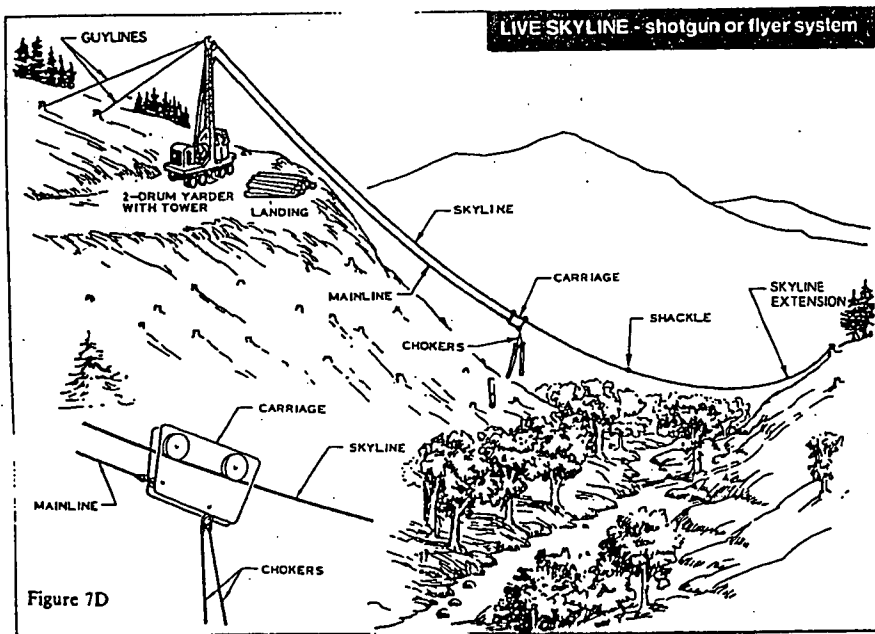
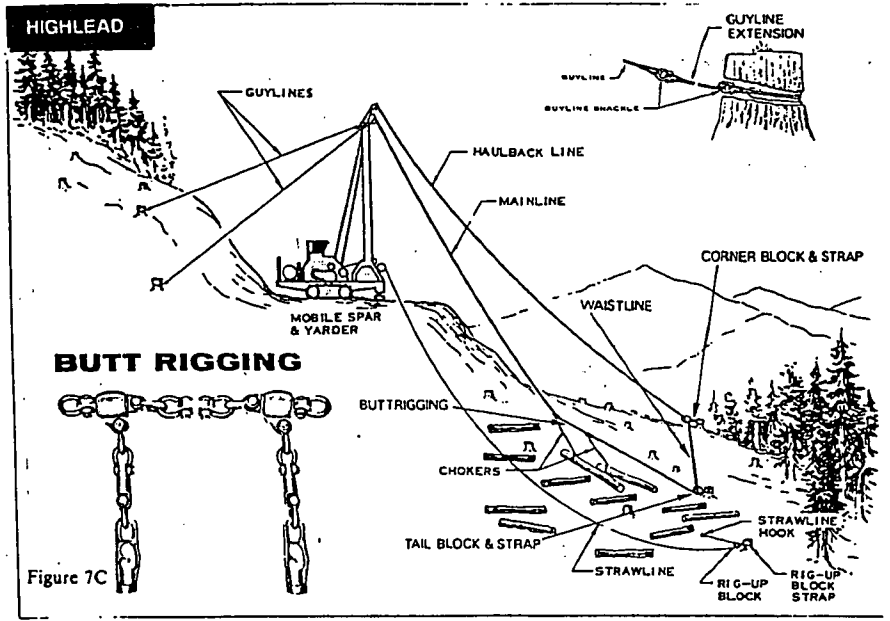
See Figures No. 7-Q through 7-U, for illustrations of whistle signals used on various cable logging systems.

PROPOSED

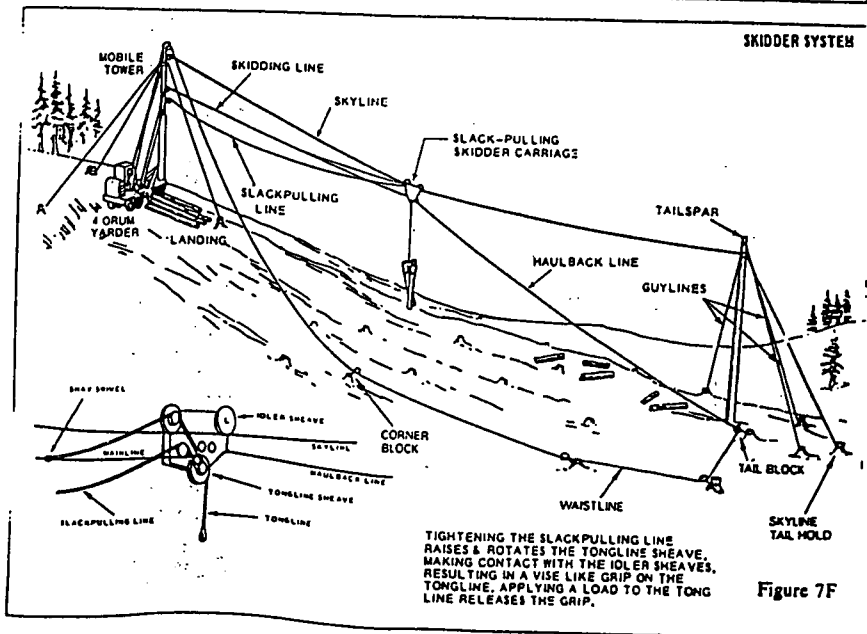
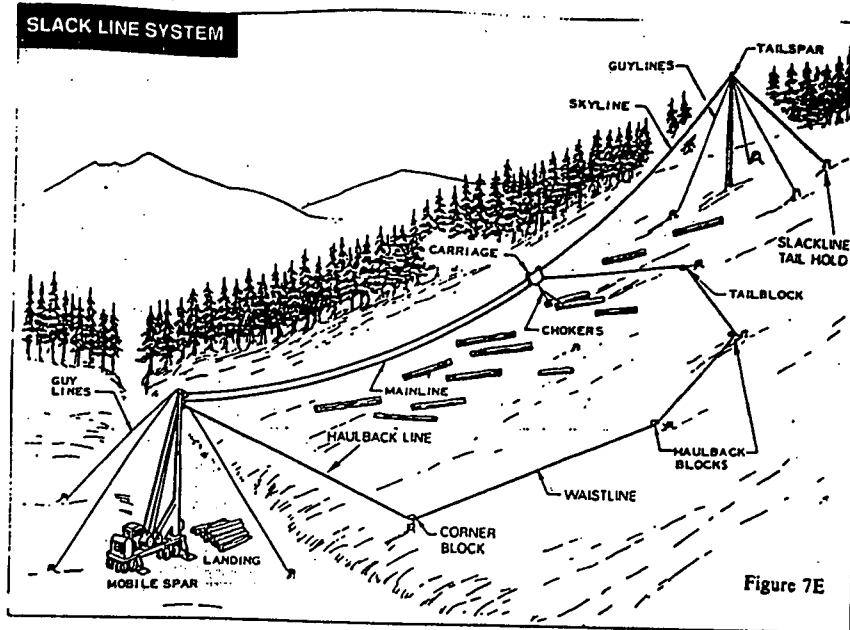
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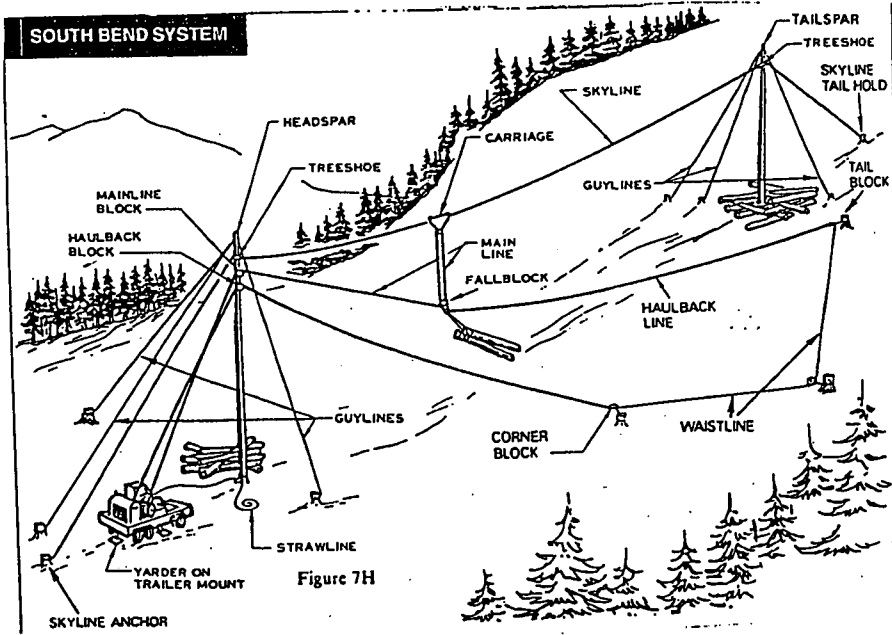
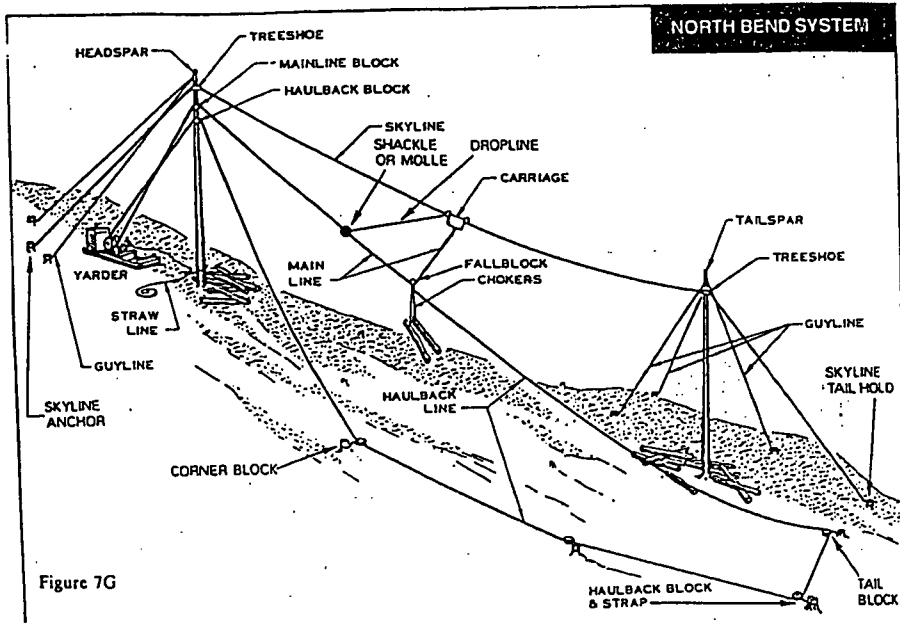
PROPOSED



PROPOSED



PROPOSED



STANDING SKYLINE - RADIO CONTROLLED CARRIAGE

mobile tower

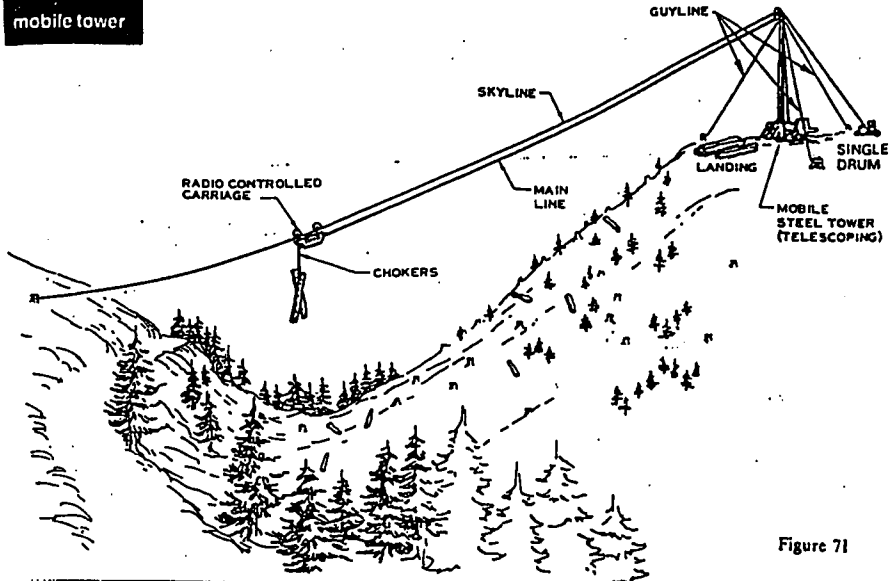


Figure 7I

SIDE MOUNT TOWER with mechanical slack pulling carriage

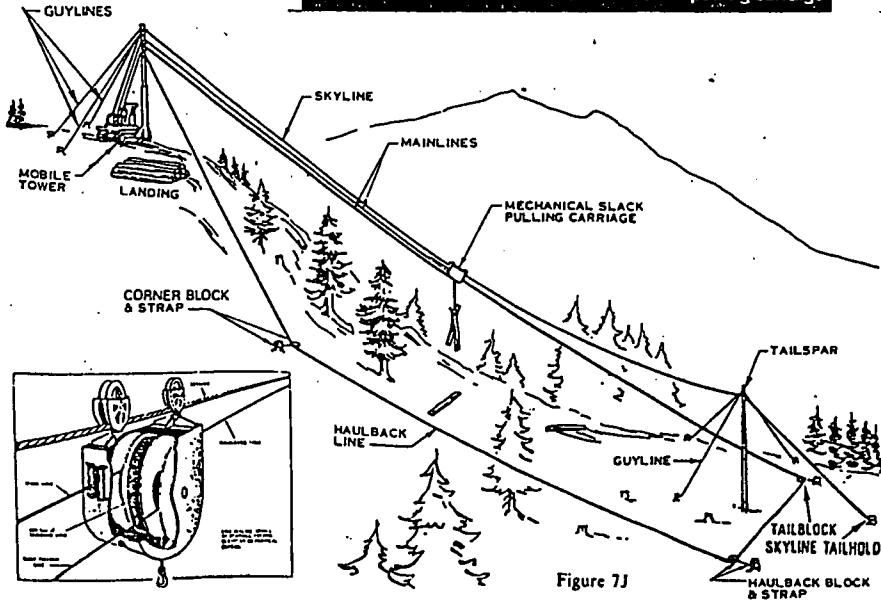
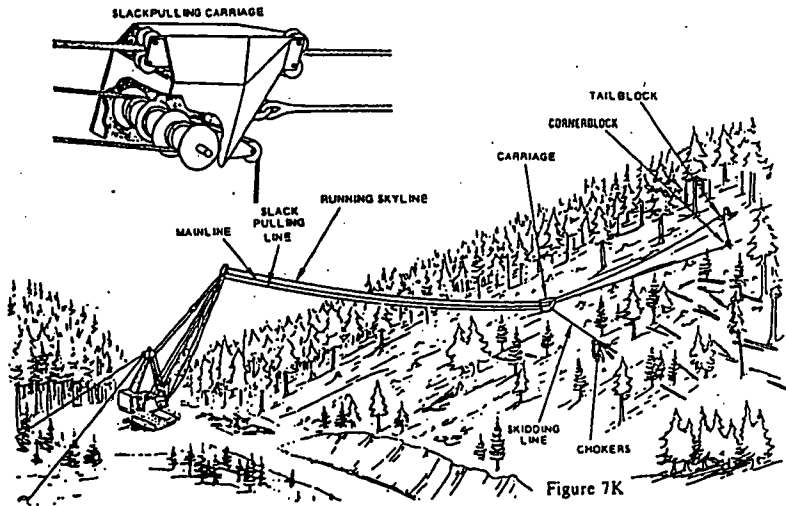


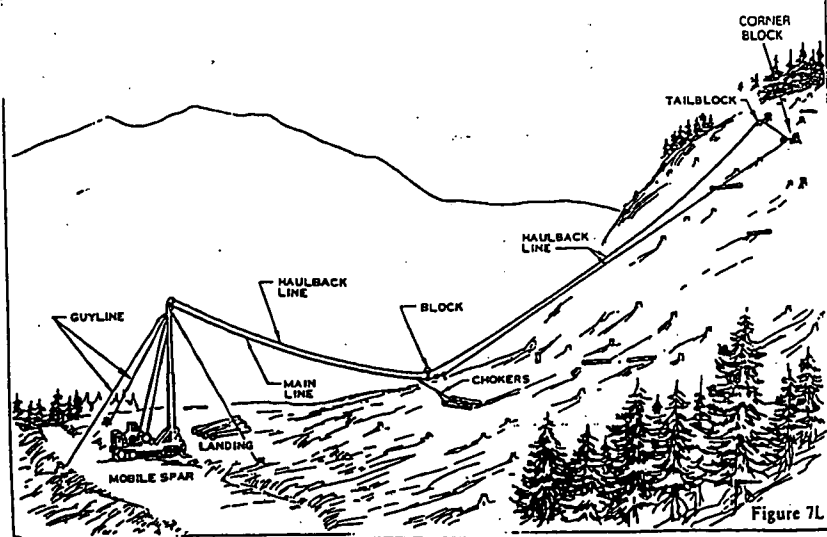
Figure 7J

PROPOSED

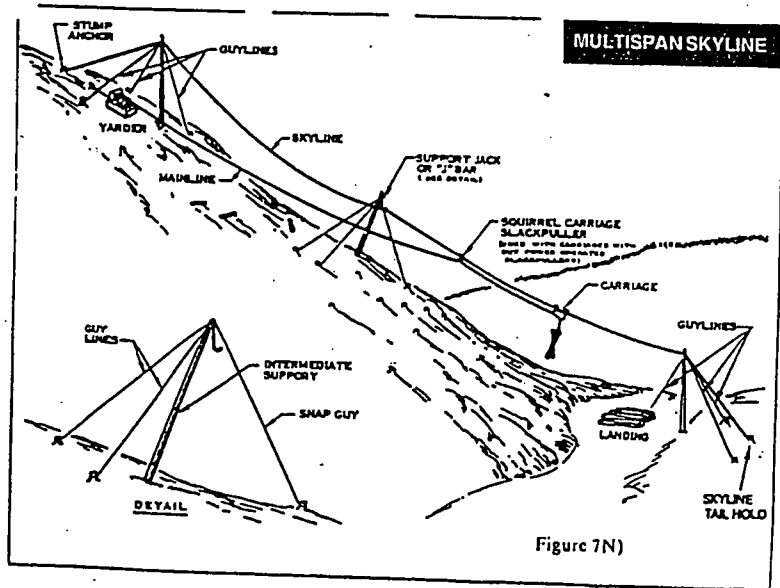
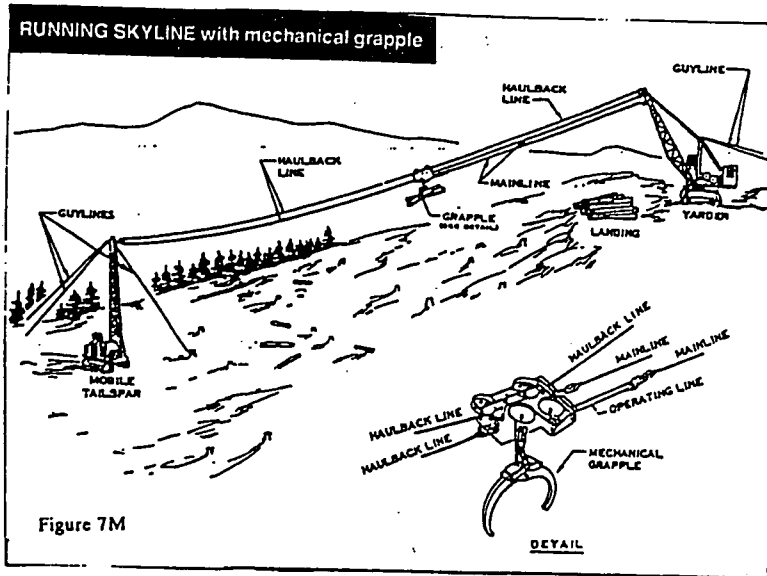
PARTIAL CUTTING WITH RUNNING SKYLINE



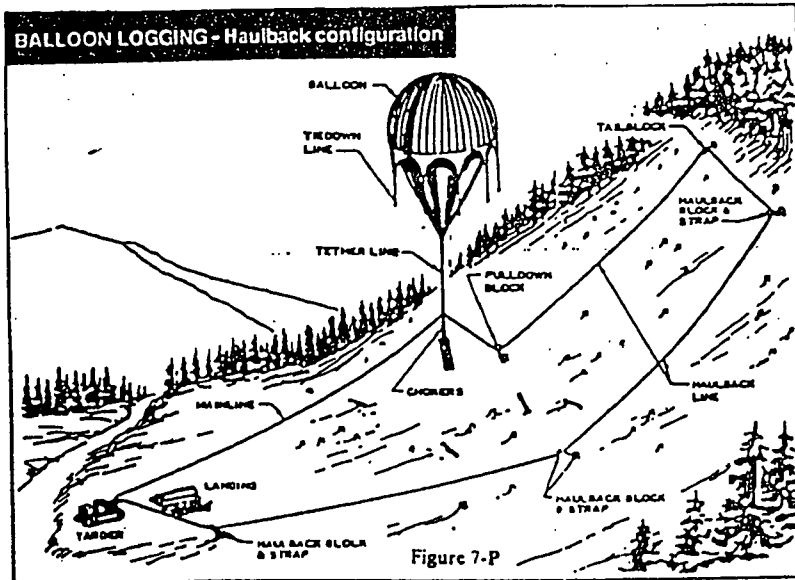
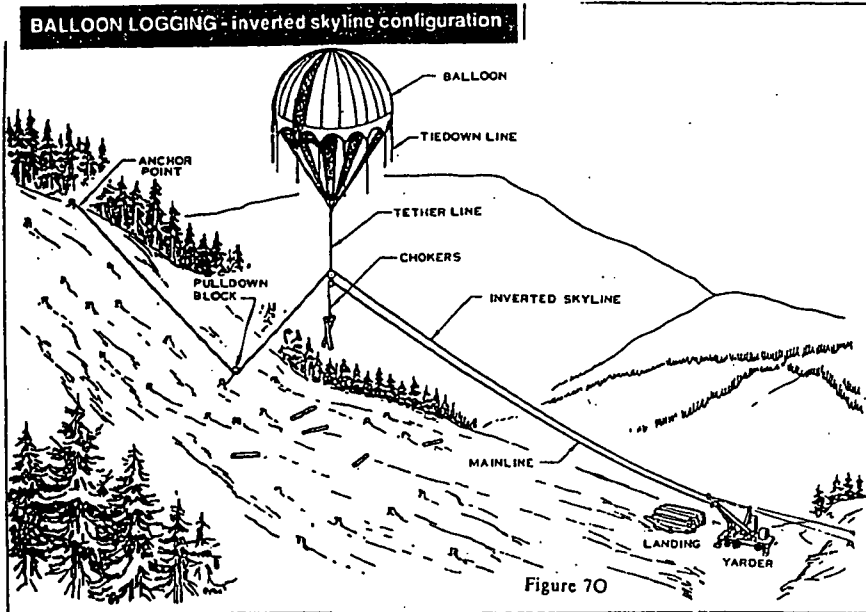
RUNNING SKYLINE with chokers (GRABINSKI)



PROPOSED



PROPOSED



HIGH LEAD LOGGING WHISTLE SIGNALS

- Means longer spacing between signals.

- 1 short Stop all lines.
- 3 short-3 short Ahead slow on mainline.
- 3 short Ahead on mainline.
- 2 short Ahead on haulback.
- 2 short-2 short Ahead slow on haulback.
- 3 short-1 short Ahead on strawline.
- 3 short-1 short-3 short Ahead slow on strawline.
- 4 short or more Slack mainline.
- 2 short-4 short Slack haulback.
- 3 short-1 short-4 short Slack strawline.
- 3 short-2 short Standing tight line.
- 1 short-1 short Tight line while lines are running, or break if running tight.
- 3 short When rigging is in: Strawline back on haulback.
- 3 short / plus "X" number of shorts When rigging is in: Indicates number of sections of strawline back on rigging.
- 3 short-1 short-2 short Strawline back on rigging.
- 1 short When rigging is in: Chaser inspect and repair rigging.
- 2 short When rigging is in: No chokers back.
- 2 short-1 short / plus "X" number of shorts Number of chokers back.
- 2 short-4 short When rigging is in: Slack haulback-hold all lines until 2 short blown.
- 3 medium Hooker.
- 3 medium-4 short Hooker and ~~((his))~~ that crew.
- 5 long Climber.
- 4 long Foreman.
- 1 long-1 short Start or stop work.
- 7 long-2 short ~~((Man))~~ Person injured, call transportation and stretcher.
- 1 long-1 short repeated Fire.
- Grabinski system
- 2 short-1 short Slack mainline and haulback together.
- 2 long Take off or put on rider block.

- 2 short Go ahead on skidding line holding carriage.
- 1 short-2 short Pick up skidding line, easy.
- 2 short-1 short Shake up carriage to clear choker.
- 2 short-2 short Ahead on receding line.
- 3 short Ahead on carriage, holding at present level, using interlock.
- 3 short-3 short Ahead easy on skidding line.
- 2 short-2 short-2 short Slack skyline, cable down.
- 2 short-2 short-2 short-1 short Pick up skyline, cable up.
- 2 short-2 short-4 short Slack receding line.
- 2 short-4 short Slack skidding line.
- 2 short-2 short-1 short Tighten all lines.
- 1 short-4 short Slack off slack puller.
- 1 short-2 short Pick up slack puller when slack.
- 2 short-2 short / plus "X" number of shorts When carriage is in: Number of chokers wanted.
- 2 short-2 short-1 long Bull choker.
- 1 short When carriage is in: Inspect butt rigging.
- 2 short-4 short / 1 short For each additional ten feet of tong line.
- 1 long / plus "X" number of shorts Number of coils of strawline wanted.
- 5 medium Tail or second rigger.
- 5 medium-4 short Tail or second rigger and ~~((his))~~ that crew.
- 2 medium Skidder head rigger.
- 3 medium-4 short Hooker and ~~((his))~~ that crew.
- 2 long Ahead on transfer.
- 2 long-4 short Slack transfer
- 1 short-3 short Ahead on carriage with slack puller line.
- 1 long Ahead on strawline.
- 1 long-4 short Slack strawline.
- 1 long-3 short Ahead easy on strawline.
- 5 long Climber.
- 4 long Foreman.
- 1 long-1 short Start or stop work.
- 7 long-2 short ~~((Man))~~ Person injured, call transportation and stretcher.
- 1 long-1 short repeated Fire.

Figure 7-Q

SKIDDER WHISTLE SIGNALS

- Means longer spacing between signals.

- 1 short Stops moving carriage-stops or goes ahead on slack puller, as case may be, if carriage is stopped.

PROPOSED

Figure 7-R

SLACKLINE WHISTLE SIGNALS

- Means longer spacing between signals.

2 short-2 short-2 short-1 short	First cable up when road has been changed and tail hold made fast.
2 short-2 short-2 short	Drop skyline.
1 short	Stop any moving line.
1 long	When logging, slack skyline.
2 short	Ahead on skyline.
1 long-2 short	Ahead easy on skyline.
3 short	Ahead on skidding line, holding haulback.
3 short-3 short	Ahead easy on skidding line with slack haulback.
4 short	Slack skidding line.
2 short-2 short / 2 short-2 short	Ahead easy on haulback with slack skidding line.
2 short-2 short	Ahead on haulback.
2 short-2 short-4 short	Slack haulback.
2 short / 3 short	Pick up skyline and skid.
2 short / 2 short-2 short	Pick up skyline and skin.
3 short-1 short	When carriage is in: Strawline back on haulback.
3 short-1 short-2 short	When carriage is in: Strawline back on carriage.
3 short-1 short	When strawline is out: Ahead on strawline.
3 short-2 short	Tight line.
3 short-1 short-4 short	Slack strawline.
3 short-1 short-3 short	Pull easy on strawline.
2 long	Ahead on transfer.
2 long-4 short	Slack transfer.
2 long-2 short-2 short	When carriage is in: Transfer back on carriage.
1 long / plus "X" number of shorts	When carriage is in: Number of coils.
2 short-2 short-1 short / plus "X" number of shorts	When carriage is in: Number of chokers.
1 short	When carriage is in: Inspect rigging, repair and send back.
2 short-2 short-4 short	When carriage is in: Slack haulback and hold all lines until 1 short is blown-then send back.
3 short-3 short	When carriage is in: Send back powder.
5 medium	Tail rigger.
5 medium-4 short	Tail rigger and ((his)) <u>that</u> crew.
3 medium	Head hooker.

3 medium-4 short	Second hooker and ((his)) <u>that</u> crew.
5 long	Climber.
4 long	Foreman.
1 long-1 short	Start or stop work.
7 long-2 short	((Man)) <u>Person</u> injured, call transportation and stretcher.
1 long-1 short repeated	Fire.

Figure 7-S

RUNNING SKYLINE WHISTLE SIGNALS

- Means longer spacing between signals

1 short	Stop all moving lines
2 short	Skin carriage back
2 short-1 short	Slack haulback
2 short-2 short	Skin carriage easy
2 short-3 short	Standing tight line
1 short-2 short	Ahead on drop line
4 short	Slack drop line
1 short-4 short	Slack both mainlines
1 short-1 short	Stop drop line going up and move carriage forward
3 short	Move carriage forward
3 short-3 short	Move carriage forward easy
3 short-1 short	When strawline is out: Ahead on strawline
3 short-1 short-4 short	Slack strawline
3 short	When carriage is in: Strawline
3 short-X short	When carriage is in: Number sections
3 short-1 short-2 short	When carriage is in: Strawline back on carriage
2 short-X short	When carriage is in: Number of chokers
4 short	When carriage is in: Inspect rigging, repair and send back
1 short	When carriage is in: Hold all lines until 2 shorts, then send back
3 medium	Head hooker
3 medium-4 short	Hooker and ((his)) <u>that</u> crew
4 long	Foreman
1 long-1 short	Start or stop work
7 long-2 short	((Man)) <u>Person</u> injured; call transportation and stretcher
1 long-1 short (repeated)	Fire
3 short-1 long	Acknowledged by engineer to signify hazardous turn

PROPOSED

Figure 7-T

TENSION SYSTEM SIGNALS

4	Release tension
1 short	Stop carriage and start unspooling tong line
1 short	Stop tong line
1 short	Resume unspooling tong line
1 short	Will stop any moving line or slack tong line when carriage is stopped
2 short-2 short	Go into interlock and go back
2 short-4 short	Slack haulback and let carriage down
After turn is set	
2 short	Go ahead on tong line
2 short-3 short	Go ahead easy on tong line
3 short	Go into interlock and take carriage to landing
3 short-3 short	Ahead on carriage easy
1 short-2 short	Increase tension on tong line when carriage is going in
short-1 short	Decrease tension on tong line when carriage is going in

Figure 7-U

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-561 Log loading—General requirements. (1) Loading operators shall have a clear view of the landing and of the cars or trucks being loaded.

(2) Persons shall not ride logs, tongs, grapples or other loading devices.

(3) The use of plain spiked loading hooks without a bell is prohibited for loading logs.

(4) All limbs or knots that would project beyond the stakes or legal height shall be removed before the log is loaded on the car or truck.

(5) When the loading operator is not able to see the loading operation, signals shall be given by a designated person, who shall have a clear view of the operations and shall be visible to the operator. Hand signals used shall be as illustrated in Figure No. 7, following WAC 296-54-565.

(6) Logs shall not be swung or suspended over occupied equipment by loading machines on landings. Persons shall not stand or walk under suspended logs.

(7) No one shall ride loads while cars or trucks are being spotted or dropped, except those whose regular duties require them to do so.

(8) Cars and trucks shall not be moved until the head loader or loading machine operator is positive that all persons are in the clear.

(9) When grapples, trip tongs or similar devices are used in the loading operation, they shall be lowered to the

ground whenever the machine is unattended. If the device can tip or fall over, it shall be laid on its side on the ground.

(10) While logs are being loaded, no one shall remain on the load, chain deck or behind the cab protector. Any unattached material shall be removed from the top of the cab protector before the truck is moved from the landing.

(11) To control the movement of a log truck being loaded, a positive audible means of communication shall be established between the truck driver and the loading machine operator. The established means of communication shall be familiar to all employees on the landing and shall include a danger signal to warn employees in case of an emergency. If a movable loader is being used, the loader operator shall sound a warning signal before moving the loader. The signals so used shall be easily distinguishable from other whistle or horn signals used in the landing area.

(12) When signals are used at a landing, reload or deck to control the movement of logging trucks in accordance with subsection (11) of this section, the following signals shall be used:

1 short	Stop
1 short	Ahead
2 shorts	Back
2 shorts then 2 shorts	Wrapper
3 shorts	Check scales
1 long-repeated	Danger
1 long	Loader moving

(13) No person shall be permitted alongside or underneath trucks being loaded or on the load until communication has been established with the loading machine operator and truck driver and assurance has been received that it is safe to be there.

(14) Power saws shall not be operated on top of loaded logging trucks.

(15) Standing underneath a suspended trailer or its reach is prohibited.

(16) The outside bunklogs (bottom tier) shall be loaded tight against the stakes.

(17) Logs shall be loaded in a manner to prevent undue strain on wrappers, binders, bunk stakes and chains or straps.

Note: Logs shall be considered to be "within the stakes" when one-half the log diameter is below the top of the stakes.

(18) Logs in any tier or layer unsecured by stakes or chalk blocks shall be well saddled and have their diameter centers inside the diameter centers of the outer logs of the next lower tier or layer.

(19) Bunk and wing logs shall extend not less than twelve inches beyond the front and rear bunks or stakes. On rigid type bunks, they shall extend not less than six inches beyond the front and rear bunks or stakes.

(20) Double ended logs, above the stakes, shall not be loaded on the side of the load from which the binders or wrappers are intended to be released from.

(21) Logs shall be loaded in a manner that will not impair full and free movement of the truck and trailer.

(22) Each log not contained within the stakes shall be secured with at least two wrappers before the truck leaves the immediate landing area.

(23) Loads or logs shall not be moved or shifted while wrappers and binders are being applied or adjusted.

PROPOSED

(24) Stable loads. Loads shall be built up or loaded in a manner to be stable without the use of wrappers. Wrappers shall be considered only as precautionary measures to ensure stability of the load.

(25) Loading equipment maintained. All loading machines and equipment shall be maintained in a safe condition. The critical parts of such equipment, such as bolts in base plates, etc., that cannot be inspected while in operation, shall be inspected at reasonable intervals by a qualified person when the machine is shutdown. If indications of failure or weakness is noted or suspected, the parts in question shall be examined by an approved method and if found to be defective, shall be repaired or replaced before the equipment is put back into operation.

(26) Tongs pulling out. Where there is a danger of tongs or hooks pulling out of the log, straps shall be used. Tongs may be used on extra-large logs provided the logs are barked and notched to provide a secure hold.

(27) The transport vehicle shall be positioned to provide working clearance between the vehicle and the deck.

(28) Only the loading or unloading machine operator and other personnel the employer demonstrates are essential shall be in the work area during loading and unloading.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-565 Log loading—Self-loading log trucks. (1) A safe means of access and egress shall be provided to the operator's loading work station.

(2) Self-loading log truck operators shall not unload their own load unless a positive means of securing the logs has been provided when binders and wrappers are removed.

(3) New self-loading log trucks purchased and put in operation after January 1, 1980, shall be equipped with:

- (a) A check valve installed on the jib boom; and
- (b) A seat that is offset from the point of attachment of the boom. The seat and boom structure shall rotate concurrently.

(4) The operator of a self-loading log truck shall not heel the log over ~~((his head))~~ the operator's work station.

AMENDATORY SECTION (Amending Order 81-3, filed 2/10/81)

WAC 296-54-567 Motor truck log transportation—General requirements. (1) Prior to use, the operator shall make a complete daily inspection of the truck and trailer with particular attention to steering apparatus, lights and reflectors, brake boosters, brake hoses and connections, reaches, and hitches (couplings). The brakes shall be tested before and after movement of the vehicle. The operator shall submit a written list of necessary repairs to a person designated by the employer.

(2) Any defective parts that would make the vehicle unsafe to operate, shall be replaced or repaired before the vehicle is placed in service.

(3) All motor vehicles operated on public roads shall comply with the rules of the regulatory body having jurisdiction. Motor vehicles used on roads not under the control of the state department of transportation, counties or cities shall be equipped with accessories necessary for a safe operation including operable head lamps and at least two tail lamps and brake lamps which shall emit a red light plainly visible from a distance of one thousand feet to the rear and shall also have two reflectors visible at night from three hundred fifty feet when directly in front of properly adjusted motor vehicle head lamps.

(4) Truck tires worn beyond a point of safety or not meeting the safety requirements of the jurisdiction having authority as to tread wear and tire conditions, shall not be used.

(5) The driver shall do everything reasonably possible to keep ~~((his))~~ the truck under control at all times and shall not operate in excess of a speed at which ~~((he))~~ the driver can stop the truck in one-half the distance between ~~((him))~~ the driver and the range of unobstructed vision.

(6) The area between the truck frame members, extending from the cab rearward as far as necessary to provide a safe work area, shall be covered with suitable nonslip type material. Log trucks which have logs scaled at stations shall be provided with a platform on each side extending outward from the frame members at least eighteen inches, and shall be eighteen inches long or as near this dimension as the design of the truck will permit. The treading surface of the platforms shall be of nonslip type material and the platform shall be capable of safely supporting a five hundred pound load.

(7) To protect the operator of vehicles from loads, a substantial bulkhead shall be provided behind the cab which shall extend up to the height of the cab.

(8) If logs must be scaled or branded while the loading operation is being carried on, the loading operation shall cease while the scaling or branding is being done so that the scaler or person doing the branding is not subjected to any hazards created by the loading operation.

(9) When at the dump or reload or where logs are scaled or branded on the truck, the logs shall be scaled or branded before the binders are released.

(10) All vehicles, where vision of the operator in the direction of travel is impaired by the load or vehicle, shall be moved only on a signal from a worker who shall have a clear view in the direction in which the vehicle is to be moved.

STANDARD SIGNALS FOR LOADING LOGS



PROPOSED

(11) Where a bridge or other roadway structure is posted with a load limit sign, log truck drivers or operators of other heavy equipment are prohibited from driving a load in excess of the posted limit over such structure.

(12) Persons shall be allowed to ride only when in the cab of the log truck.

(13) All trucks shall keep to the right side of the road except where the road is plainly and adequately posted for left side travel.

(14) A method shall be provided to assure that the trailer will remain mounted on the truck while driving on highways or logging roads.

(15) When trucks are towed on any road, the person guiding the vehicle being towed shall, by prearranged signals, govern the speed of travel. The towing of vehicles shall be done at a reasonable speed and in a prudent manner. A tow cable or chain over fifteen feet in length shall have a white flag affixed at the approximate center, however, it is recommended that a rigid tow bar be used for this purpose.

(16) All air lines, air chambers and systems shall be free of leaks and be able to maintain air pressure on constant brake application with the motor shut-off for one minute, or air pressure does not drop more than 4 p.s.i. in one minute with the engine running at idling speed and the service brake applied.

(17) All rubber-tired motor vehicles shall be equipped with fenders. Mud flaps may be used in lieu of fenders whenever the motor vehicle is not designed for fenders.

(18) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (D.O.T. Federal Motor Vehicle Safety Standards) shall be installed and used in all motor vehicles.

(19) All trucks shall be equipped with doors with operable latches, or a safety bar or strap shall be provided in lieu of the door.

(20) All trucks shall be equipped with a means to protect the operator from inclement weather.

(21) Log trucks shall not approach a landing while there is danger from incoming logs.

(22) Log truck drivers shall stop their vehicle, dismount, check and tighten loose load wrappers and binders, either just before or immediately after leaving a private road to enter a public road. While enroute, the operator shall check and tighten the wrappers/tie downs whenever there is reason to believe that the wrappers/tie downs have loosened or the load has shifted.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-575 Motor truck log transportation—Stakes, stake extensions and chock blocks. (1) Trucks and trailers shall be equipped with bunk stakes or chock blocks of strength and sized material to perform their intended function.

(2) Stake extensions shall not be used unless all component parts of the bunking system are of sufficient size and strength to support the added stresses involved. Stake extensions shall be secured by safety chains or other devices to prevent their accidental displacement.

(3) The linkage used to support the stakes or chocks must be of adequate size and strength to withstand the

maximum imposed impact load. Molles or cold shuts are prohibited in chains or cables used for linkage.

(4) Stake chains or cables shall be equal to or better than "high test" steel chain or "plow steel" wire rope, and shall be of a size necessary to meet the requirements of a safe working load of not less than six thousand six hundred pounds. (3/8-inch alloy chain, 7/16-inch high test chain of welded link construction, and 5/8 inch improved plow steel cable in 6 x 19 and 6 x 37 construction meet this requirement.)

(5) Bunk chains containing cut, cracked, excessively worn, or otherwise defective links, shall be immediately removed from service. Molles, cold-shuts (welded or otherwise), or bolts are not permitted in bunk chains.

(6) The use of frayed, stranded, or otherwise defective wire rope for chock block cable or stake straps is prohibited.

(7) Only chain links approved for welding (and properly welded) or approved repair links which will develop a strength equivalent to the chain, are permissible for repairs or attachments to stake chains or binder chains.

(8) Chains or cables used to secure stakes or chock blocks shall be secured in a manner which will not necessitate hammering directly on them to release the stakes or blocks. Keyhole slots and similar methods of securing chains are prohibited.

(9) Deformed or defective stakes, stake securing or stake locking devices, or bunks shall be immediately repaired or removed from service.

(10) Each stake and chock which is used to trip loads shall be so constructed that the tripping mechanism is activated on the side opposite the release of the load.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-577 Motor truck log transportation—Wrappers and binders. (1) On log trucks equipped with stakes, the following requirements shall apply:

(a) In the hauling of a one log load, one wrapper chain or cable shall be required and secured to the rear bunk. The log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

(b) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(c) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(d) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(2) On log trucks equipped with chock blocks, the following requirements shall apply:

(a) In the hauling of a one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(b) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subdivisions (1)(c) and (d) of this section.

(3) In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck or trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight-fitting socket at least 12 inches in depth. Other means furnishing equivalent security may be acceptable.

(4) When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(5) To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(6) No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(7) All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(8) All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(9) Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(10) A warning shall be given before throwing wrappers over the load and care shall be taken to avoid striking other persons with the wrapper.

(11) Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(12) While moving logs, poles, or log chunks within sorting or mill yards, that could roll or slide off the truck due to snow or ice conditions, or the logs or log chunks do not extend beyond the stakes, at least two wrappers and binders shall be used regardless of the height of the load.

(13) Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

Note: 3/8-inch hi-test steel chain, 7/16-inch improved plow steel wire rope of 6x19 or 6x37 construction, or materials having equivalent strength, when in compliance with the requirements herein contained, will be acceptable. (The diameter of the wire rope is

immaterial as long as it meets the minimum breaking strength requirements.)

(14) A loaded logging truck required to have wrappers by this section, may be moved within the loading area without wrappers only if such movement does not present a hazard to workers.

(15) For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(16) All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(17) Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(18) Wrappers shall be removed from service when any of the following conditions exist:

- (a) Excessively worn links on chains;
- (b) Deformed or stretched chain links;
- (c) Cracked chain links;
- (d) Frayed, stranded, knotted, or otherwise defective wire rope.

(19) Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(20) Defective binders shall be immediately removed from service.

(21) Each tie down/wrapper shall be left in place over the peak log to secure all logs until the unloading lines or other protection the employer demonstrates is equivalent has been put in place. A stake of sufficient strength to withstand the forces of shifting or moving logs, shall be considered equivalent protection provided that the logs are not loaded higher than the stake.

(22) Each tie down/wrapper shall be released only from the side on which the unloading machine operates, except as follows:

(a) When the tie down/wrapper is released by a remote control device; and/or

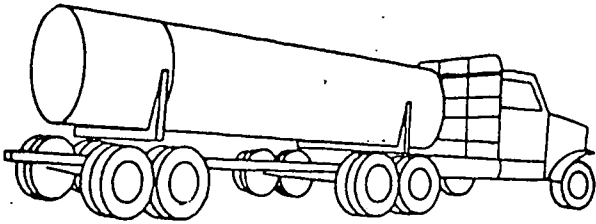
(b) When the employee making the release is protected by racks, stanchions or other protection the employer demonstrates is capable of withstanding the force of the logs.

Note: See Figures 9-A and 9-B for illustrations of placement and number of wrappers.

PLACEMENT AND NUMBER OF WRAPPERS

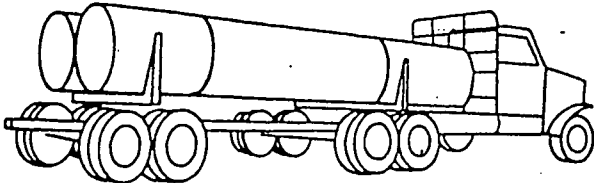
PROPOSED

One Log Load



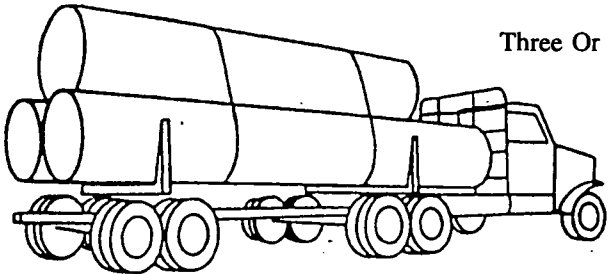
One wrapper required which shall be secured to the rear bunk. The log shall be blocked or secured in a manner to prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

Two Log Load



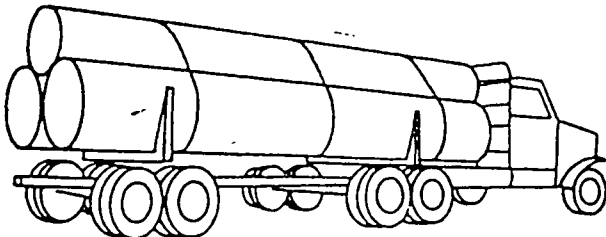
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting. If all logs are not contained by the stakes, additional wrappers required.

Three Or Four Log Load 44 Ft. Or Less



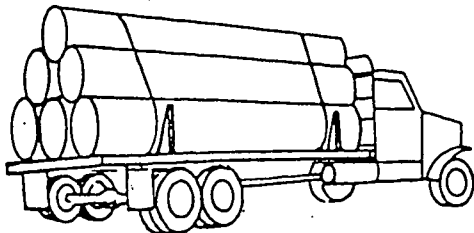
A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.

Three Or Four Log Loads More Than 44 Feet



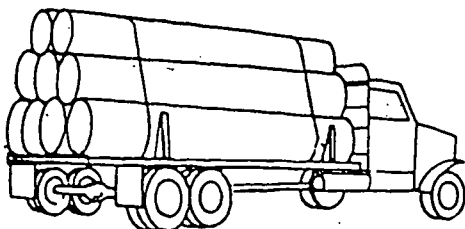
A minimum of three wrappers required. If all logs are not contained by the stakes, additional wrappers required.

Five Or Six Log Load
All Logs 17 Feet Or Less



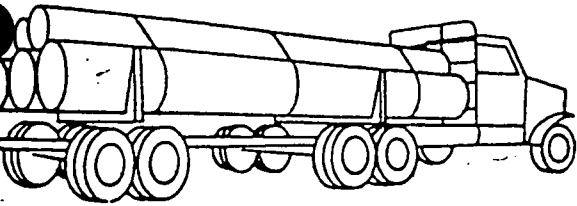
A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.

Seven Or More Log Load
All Logs 17 Feet Or Less



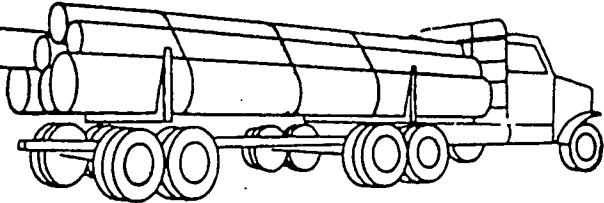
A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.

**Five Or More Log Load
If Any Logs Are More Than 17 Feet**



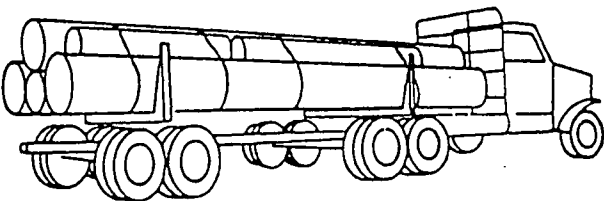
A minimum of three wrappers are required. If all logs are not contained by the stakes, additional wrappers required.

Proper Support For Logs



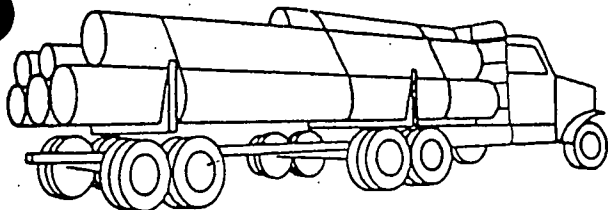
Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Outside Logs Or Top Logs



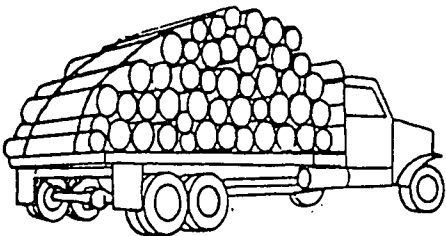
All outside (wing) or top logs shall be secured by a wrapper near but not within 12 inches of each end.

A Wrapper Shall Be Near Each Bunk



Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Short Logs Loaded Crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-593 Dry land sorting and storage. (1) Unauthorized foot and vehicle traffic shall not be permitted in the sorting or storage area.

(2) Logs shall be stored in a safe and orderly manner. Roadways and traffic lanes shall be kept clear of protruding ends of logs and debris.

(3) Dry deck log storage areas shall be kept orderly and maintained in a condition conducive to safe operation of mobile equipment. Roadways and walkways shall have a smooth hard-packed surface wide enough to permit a safe operation. Bark, mud, and other debris shall not be allowed to accumulate to the extent it constitutes a hazard to the operation.

(4) At log dumps, sorting and storage areas, an effective means shall be provided and used to control dust.

(5) Only an authorized person shall operate or ride any lift truck, log stacker, or log unloader.

(6) Signaling log unloader operators at dry deck areas by throwing bark or chips in the air is prohibited. Hand, horn signals or other safe, effective means shall be used at all times.

PROPOSED

(7) Unnecessary talking to operator while engaged in operating controls of log stacker or log unloader is forbidden.

(8) Lift forks and arms of unloading machines shall be lowered to their lowest position, and all equipment brakes set prior to the operator leaving ~~(his)~~ the machine unattended.

(9) Log unloaders or stackers shall not be moved about the premises for distances greater than absolutely necessary with the lift extended above the drivers head or with loads lifted higher than is necessary for vision.

(10) When truck drivers are out of the cab, they shall be in the clear, and in view of the log unloader before the lift forks are moved under the load and the lift is made.

(11) Where logs are offloaded onto a dry deck by means of unloading lines, a mechanism shall be used which is self-releasing. Employees shall be prohibited from ascending dry decks to release unloading lines.

(12) Persons shall not position themselves in the hazardous area near or under loads of logs being lifted, moved or suspended.

(13) Jackets or vests of fluorescent or other high visibility material shall be worn by persons working on dry land log storages. Hard hats shall be of a contrasting color or shall have high visibility tape affixed thereon.

(14) Log unloaders and log stackers designed in a manner whereby logs being handled may jeopardize the safety of the operator shall be provided with overhead protection and any other safeguards needed to afford adequate protection.

(15) Log unloaders and log stackers shall be equipped with a horn or other audible warning device. If vision is impaired or restricted to the rear, the warning device shall be sounded before operating the vehicle in reverse gear and sounded intermittently during the entire backing operation. The warning device shall be maintained in an operative condition.

(16) Each log-handling machine shall be equipped with a braking system which is capable of stopping and holding the machine with maximum load on any grade on which it may be required to work.

(17) A limit stop, which will prevent the lift arms from over-traveling, shall be installed on electric powered log unloaders.

(18) Shear guards shall be installed on unloading machines and similar types of equipment on which the arms pivot and move alongside the operator creating a pinch point at that location.

(19) All forklift type machines shall be equipped with grapple arms and the arms shall be used whenever logs are being moved.

(20) When log trucks are loaded by the use of a log stacker and the lay of any log is higher than the stakes, the log stacker shall remain against the completed load, or other suitable protection provided, to prevent the logs from falling until at least two wrappers and binders have been applied.

(21) All binders and wrappers shall remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of the truck or trailer when binders are released. A shear log, or equivalent means, shall be provided to ensure the log truck will be stationed close enough to the wrapper rack so that a log cannot fall between the log truck and the wrapper rack when removing binders

and wrappers. At least one binder shall remain secured while relocating or tightening other binders. Crotch lines, forklifts, log stackers, log unloaders, or other effective means shall be used for this purpose.

(22) An extra wrapper or metal band of equal strength shall be placed to hold the logs when it is necessary to remove a wrapper to prevent it from being fouled by the unloading machine.

(23) Machines of the type having arms which block the regular exit when in the up position, shall have an emergency exit installed.

(24) Seat provided. Riding on any part of a log handling machine except under the canopy guard is prohibited.

(25) Identification tags shall not be applied or pulled unless logs are resting in a stationary place, such as bunks, cradles, skids, or sorting tables.

(26) No person shall approach the immediate vicinity of a forklift-type log handling machine without first notifying the operator of ~~(his)~~ the person's intention and receiving an acknowledgement from the operator.

(27) When forklift-type machines are used to load, unload, or handle trailers, a positive means of holding the lifting attachment to the fork shall be installed and used.

(28) When dry land log dumps use unloading methods similar to those of water dumps, the safety standards for water dumps shall apply to dry land dumps.

(29) When logs are handled between the hours of sunset and sunrise or other periods of poor visibility, illumination shall be provided consistent with chapter 296-62 WAC, general occupational health standards, pertaining to illumination.

(30) Air operated stake releases shall be in conformity with the following requirements:

(a) The air supply shall be taken from the "wet" air reservoir or from the accessory air line to a spring loaded, normally closed control valve.

(b) The control valve shall be located in the cab, positioned so that it is accessible only from the operator's position.

(c) The control valve shall be fitted with a spring loaded cover or be otherwise guarded against inadvertent operation.

(d) A separate air line shall extend from the control valve to the tractor and trailer stake release chambers. The air line shall be clearly identified or installed in such a manner as to preclude it from being mistaken for the service or emergency air line.

(31) Each deck shall be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-595 Railroad operations. (1) All persons employed in any service on trains or rail operations, which are not engaged in interstate commerce, are subject to and shall be conversant with all rules and special instructions.

(2) Employees must render every assistance in their power in carrying out these rules and special instructions and must report to the proper official any violation thereof.

(3) Accidents, detention of trains or speeders, failure in supply of fuel or water, defects in track, bridges, or signals, must be properly reported to the supervisor by the quickest possible method.

(4) Any logging railroad may maintain a special set of operating rules applicable to their operation, provided that said rules are acceptable to the division of industrial safety and health, department of labor and industries.

(5) Each logging railroad operation which has more than one piece of railroad equipment in operation, must have a dispatcher on duty. All equipment must receive clearance from dispatcher.

(6) Train crew size shall be dependent upon the number of persons needed to safely operate the train under all prevailing conditions; however, when necessary to set hand brakes, two or more persons shall be assigned to set the brakes and give signals.

(7) All locomotives shall be equipped with sanding devices for both rails, front and rear, in proper working order. Clean, dry sand should be used.

(8) Locomotives shall be equipped with power brakes (air or steam) on all driving wheels. Tenders also shall have power brakes.

(9) All locomotives and speeders, operating between sunset and sunrise or other periods of reduced visibility, shall be equipped with and use head lights which shine in the direction of travel. The lights shall be of sufficient candlepower so the train can be stopped within range of the light beam. Cab lights shall be provided and maintained so the operators can see from their required positions the gauges and equipment necessary for operation.

(10) All locomotives shall be equipped with proper grab irons, hand holds, steps, and running boards.

(11) All locomotives shall be equipped with automatic couplers, suitable for low or high draw-bars.

(12) On all rolling stock, wheels which have sharp or badly worn flanges, shall be replaced. Avoid the use of flat wheels.

(13) All locomotives with tender shall have an apron of proper length and width to insure safety and which shall be roughened to insure secure footing.

(14) Handholds and footboards shall be provided on locomotive cranes, except where cab overhangs end of car.

(15) Trains and speeders shall not exceed a safe speed.

(16) A terminal test of air brakes shall be made by trainmen before leaving the terminal. Enginemen shall not proceed until they are satisfied by brake action that brakes are able to control the train.

(17) All of the cars in a train shall have their brakes in good operating condition.

(18) On railroads where joint operations of two or more firms are necessary, trains shall not be dispatched less than fifteen minutes apart. Red lights shall be displayed on the rear of such trains at night or when visibility is poor.

(19) Whenever cars are left on grades, derailleurs shall be provided. Derail signs shall be placed near derailleurs. In setting out equipment, care shall be used in seeing that proper clearance is provided.

(20) Standard pressure for mountain grades requires a pressure of ninety pounds in train pipe, one hundred ten pounds in main reservoirs (low pressure) and one hundred thirty pounds in high pressure to insure quick releasing of

brakes and recharging of auxiliaries. Engineer shall see that ~~((his))~~ the engine carries these pressures and that sanders, both forward and rear, are in working order. On all heavy grades the high pressure retaining valve must be used and before train is started from landing, a test of brakes must be made and piston travel adjusted, if necessary, and retaining valves put up. Engineer shall start train away from landing slowly, giving wheels a chance to roll before applying brakes and, to avoid skidding of wheels, using sand freely. Brakes should then be applied immediately and released, allowing the retaining valves to hold the train while train pipe and auxiliaries are being recharged. Train speed should be held to the required rate by setting and releasing brakes as it is necessary to control train.

(21) When it is necessary to leave loads on pass while switching a side, loads must be left close to derailer, air set and sufficient hand brakes set up, before cutting engine from train.

(22) ~~((Enginemen))~~ Engineer must see car or ~~((signalman))~~ signal person when making couplings, giving ~~((trainmen))~~ train crew ample time to align drawheads and open knuckles of coupler, especially on curves, except when using radios.

(23) Drawbars should not be aligned with the foot while cars or engines are in motion. ~~((Trainmen))~~ Train crew shall not climb between cars while in motion. ~~((Enginemen))~~ Engineers shall not drift too close to switches which are to be thrown. Position of switch points should always be observed after throwing switch. Switch lever should be pushed firmly into the notch before leaving the switch. No persons except trainmen, unless authorized, shall ride on engine foot-boards. No object shall be thrown from train or engine while in motion. Bell shall be rung or whistle blown, before moving locomotive.

(24) No equipment shall be pushed ahead of locomotive unless a ~~((brakeman))~~ brake tender is on head car in constant view of engineer or second ~~((brakeman))~~ brake tender in position to intercept and pass signal to engineer.

(25) In addition to air brakes, hand brakes must be provided on all cars and maintained in good working order.

(26) Hand brakes must be easily accessible to ~~((brakemen))~~ brake tenders when cars are loaded. When wheels or staff brakes are used they should be placed on the side opposite the brow log at the dump to prevent their damage when cars are unloaded. All switch throws, walkways and cleared areas for ~~((brakemen))~~ brake tenders shall be on the hand brake side.

(27) All brake hickies shall be made from three-fourths inch hexagon steel (high grade) and be twenty-four inches with a good claw on one end to fit the wheel and a knob on opposite end to prevent slipping from brakeman's hand.

(28) All railroad trucks and cars, where brakes are set by hand while in motion, shall have good footboards and toeboards on the brake end.

(29) A ten inch bunk block is recommended on all trucks to prevent logs from slipping over block.

(30) All cars other than logging trucks must have hand hold and foot steps to permit persons to get on and off easily and safely.

(31) All cars and trucks regularly operated must have automatic couplers.

(32) Locomotives and cabooses shall carry the following equipment:

- 1 red light (lantern type)
- 3 red flags
- At least 3 fuses

(33) When a train stops between telephones, or where the rear of a train extends beyond yard limits, the rear of the train must be properly protected.

(34) Whistle sign board shall be placed one thousand two hundred feet from each side of highway crossings.

(35) A rail clamp shall be placed to hold cars left on a grade on main line or spurs.

(36) All cars and trucks shall be legibly numbered so that those with defects may be reported and taken out of service. Each locomotive, speeder, or other self-propelled vehicles shall be numbered, or otherwise made readily identifiable.

(37) All cars used for hauling logs shall be equipped with patent stake bunks, or bunks with chock blocks and/or chains, so constructed that block can be released from opposite end of bunk unless solid stakes are used.

(38) All main line trains of more than ten loaded cars shall have a caboose at the rear of the train.

(39) All operations having both truck roads and railroads, shall post signs at intersections same as public crossings.

Engine whistle signals. The following engine whistle signals are established as standard and are taken from the American Association of Railroads. The signals prescribed are illustrated by "o" for short sounds and "-" for long sounds. Audible whistle shall be sounded when approaching camps, junctions, grade crossings and other prescribed places in conformity with the American Association of Railroads:

- One short (o) Stop, apply brakes.
- Two long (—) Release brakes.
- Three long (—-) When running, train parted, to be repeated until answered by hand signal.
- Two short (oo) Answer to any signals not otherwise provided for.
- Three short (ooo) When train is standing back.
- Four short (oooo) Call for signals.
- Two long, two short (—oo) Approaching highway crossing at grade.
- One long (-) Approaching station, rollway, chute, crossing, junctions, and derailers. When standing, air leak.
- Six long (— — —) Repeated at intervals, call for section ~~((men))~~ crew, train derailed.
- One long, three short (-ooo) ~~((Flagman))~~ Flagger to go back and protect rear of train.
- Four long (— — —) Foreman.

- Five long (— — -) ~~((Flagman))~~ Flagger to return from any direction.
- Long, short (-o-o-o) Repeated four or more times, fire alarm.
- Seven long, two short (— — — -oo) Repeated, ~~((man))~~ person hurt.
- One long, one short (-o) Repeated at intervals, closing down.
- Groups of shorts repeated . . . (ooooooo) Danger of runaway.
- Unnecessary use of whistle is prohibited.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-597 Railroad maintenance—Loading or unloading. (1) Track gangs, bridge crews, etc., when working on railroads in use shall place a yellow caution flag by day and a yellow lantern by night a sufficient distance both directions from the crew to protect them against approaching equipment. The operator of said equipment shall acknowledge the signal by two short blasts of the whistle or horn and proceed with caution.

When said crews are removing or replacing a rail or are performing any other work that would make it necessary for approaching equipment to come to a stop, they shall place a red flag by day and a red lantern by night in the center of the track a sufficient distance in both directions from the crew to protect them against said equipment. The operator of approaching equipment shall acknowledge the signal by one short blast of the whistle or horn and shall come to a dead stop and remain standing until the signal is removed by the person who placed it, or until investigation proves that the track is safe for passage. If a ~~((flagman))~~ flagger is used, the above provision need not apply.

(2) Where clearance is scant, warning signs or signals shall be posted.

(3) Switch throws should be kept well oiled and targets and signs in good legible condition.

(4) Standard clearances shall be maintained at all points on the right of way except where necessarily restricted where loading or unloading operations are performed or at water tanks, fuel tanks, etc. Warning signs shall be posted at all such locations.

(5) Whenever ~~((workmen))~~ workers are repairing, working on or in railroad equipment, loading or unloading cars or performing other duties where there is danger of the railroad equipment being struck by other moving railroad equipment; proper means, methods or safeguards shall be used to protect such ~~((workmen))~~ workers. A derail shall be used to prevent other rail equipment from contacting such cars or equipment or endangering the ~~((workmen))~~ work crew. After cars are spotted, blue flags shall be placed in the center of the tracks at least fifty feet from the end car during the day and blue lights shall be installed at such locations at night. Flags, lanterns and derails shall be removed only by the person placing them unless they are to remain posted for a longer period of time, in which case one person on each oncoming shift shall be responsible to ascertain that they are in place and ~~((he))~~ they shall not remove such safeguards until ~~((he))~~ that person investigates

PROPOSED

to make certain all persons are in the clear. Operators of approaching equipment shall not pass or remove a flag or lantern which is properly posted. Cars or other equipment shall not be placed where it will obscure the signal from an operator controlling approaching equipment.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-601 Signals and signal systems. (1) Standard hand or whistle signals as described or illustrated herein, shall be used for the movement of rigging, logs, or equipment when using a high lead, slackline, or cable skidder system for yarding. For hand signal illustrations, see Figure 4.

(2) Voice communications may be used for yarding under the following conditions:

(a) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a grapple type logging system, providing no person is in a hazardous area near live rigging.

(b) Voice communication may be used to instruct the yarder operator when picking up an occasional log with the use of a choker on a grapple system, providing the grapple is on the ground prior to the setting of the choker and that no lines are moved by the operator until the person setting the choker has returned to a safe location away from any running lines. At no time shall chokers be used on the grapple system during the hours of darkness or during periods of reduced visibility to such extent that the yarder operator cannot clearly see the (~~workmen~~) setting of the choker. When a number of logs are required to be yarded by using chokers instead of the grapple, the requirements specified for high lead type of logging shall apply.

(c) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a balloon system for yarding. The person operating the radio shall ascertain that all crew members are in the clear before transmitting instructions which would cause any line or turn to move. The person giving such instructions shall keep the crew members informed as to which movements will commence. The whistle shall be blown before moving any running line.

(d) The Federal Communications Commission rules require that assigned call letters be used in conjunction with voice communications.

(3) Voice communications on the same radio frequencies used to transmit skyline, highlead, slackline, or skidder whistle signals (154.57 and 154.60 MHz channels), shall be prohibited.

Note: If voice is received on 154.57 or 154.60 MHz channels, it is recommended the Assistant Director, Department of Labor and Industries, (~~Division of Industrial Safety and Health~~), P.O. Box (207, Olympia, Washington 98504, (Phone 360/753-6500)) 44655, Olympia, Washington 98504-4655 (phone (360) 902-5572) be contacted as soon as possible to enable the department to ascertain the source of the voice transmission.

(4) If a standard signal is not listed for an unusual or new situation, a hand or whistle signal other than any listed for the type of yarding being done may be used for the specific situation only. Any special signals so developed

shall be understood by all persons required to work in the area which may be affected by their use.

(5) A copy of the standard hand and whistle signals shall be posted on the yarder and at places where crews congregate. For tractor logging operations, hand signals shall be posted at places frequented by the crew members such as in crew buses, etc.

(6) Only one (~~workman~~) person in any crew shall give signals at the point where chokers are being set. Any person is authorized to give a stop signal when a (~~workman~~) person is in danger or other emergency condition is apparent.

(7) Hand signals are permitted only when the signal person is in plain sight of the machine operator and when visibility is such that the signals are discernible. Hand signals may be used at any time as an emergency stop signal.

(8) Throwing of any type of material as a signal is prohibited.

(9) The use of a jerk wire signal system for any type of yarding operation is prohibited.

(10) All persons shall be in the clear before any signal is given to move the rigging, logs, or turns, and movement of rigging, logs, or turns shall not commence until after the proper signals have been given.

(11) Machine operators shall not move any line unless the signal received is clear and distinct. If in doubt, the operator shall repeat the signal as understood and wait for confirmation.

(12) A horn or whistle which is automatically activated by the radio or electric signaling system shall be used on each yarder used for skyline, high lead, skidder or slackline system of yarding, except where hand signals are permissible. The horn or whistle shall emit a sound which will be clearly audible to all persons in the affected area. Such a horn or whistle shall also be required on combination yarding and loading machines and tree pullers. Audible signals are not necessary on grapple or other yarding systems where persons are not exposed to the movement of logs or rigging.

(13) Each unit of the signal or control system in use, shall be tested daily before operations begin. Audible signals used for test purposes shall not include signals used for the movement of lines or materials.

(14) Citizen band (CB) radios shall not be used to activate any signal, machine, or process, either automatically or by voice. This shall not prohibit the use of CB radios for communication between sides, vehicles, work units, or for emergency situations.

(15) When audible whistle signals are being used simultaneously by yarding and loading machines at a landing, signal whistle or horn tones used in connection with machine movements shall be so differentiated as to distinctively identify any intended work movement of either machine.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or equipment. (1) Every employer who uses a radio signaling or

control system (voice or functions) shall comply with or exceed the minimum requirements specified in this section.

(2) A valid operating permit shall be obtained by the owner from the (~~division of industrial safety and health~~) department of labor and industries, prior to putting into use any radio signaling or control system (voice or functions) intended to be used in conjunction with any type of cable logging operation. Permits will be issued only for systems licensed for such use and using those carrier frequencies as authorized by the Federal Communications Commission. In addition, permits will be granted only when tone or function frequencies are compatible with other radio systems in use and when in compliance with all other applicable requirements contained in this safety standard.

(3) The (~~division of industrial safety and health~~) department of labor and industries reserves the right to designate the use of radio frequencies for certain purposes or functions, for example, certain frequencies may be used for voice transmission of instruction, others for tone coded functions, or activation of signaling devices. No single tone sets shall be permitted for logging purposes. The (~~division~~) department may also designate which tone frequencies may be used for the activation of a signaling device or for control of equipment on certain federal communication assigned carrier frequencies.

(4) A list of tone frequencies which may be used with any Federal Communications Commission assigned carrier frequencies will be made available by the (~~division of industrial safety and health~~) department to any interested person, firm, or corporation upon request.

(5) The (~~division of industrial safety and health~~) department shall assign the area or areas in which a radio signaling system may be used and shall so mark on the permit. Radio signaling systems shall not be used in any area other than indicated on the permit. (See Figure 10 for map of areas.)

(6) The person or firm name on the permit shall be the same as the person or firm operating the radio signaling system except for loaner or rental sets. A person or firm using a loaner or rental set shall be responsible for the radio signal system as if they were the owner of the set. The application for a permit to use a radio signaling system shall contain the following information:

- (a) Name and address of applicant.
- (b) The radio frequencies of the radio signaling device in MHz.
- (c) The tone frequency or frequencies of the radio signaling system used to activate a horn, whistle, or control equipment in Hz. The security gate, or pulse tone, shall be shown first.
- (d) The name of the manufacturer of the radio signaling system.
- (e) The serial number of the receiving unit.
- (f) The state assigned area or location in which the unit will operate.
- (g) Indicate type of signaling used.
- (h) From whom the system was purchased or acquired, and the date of acquisition of the system.
- (i) Intended use and function of system.

(7) The permit granted by the department shall be attached to the case of the receiver of the radio signaling system for which it is granted.

(8) Each radio receiver shall have its radio carrier frequency in MHz and tone frequency(s) in Hz indicated on the outside case of the receiver. The manufacturer's name and serial number shall also be permanently indicated on the outside of the case. When the duration or width of the tone frequencies performs a function, the one duration/width shall also be permanently indicated on the outside of the receiver case. Each transmitter shall be identified with its receiver. Two or more receivers in operation simultaneously on the same tone frequency shall be prohibited.

(9) It shall be the responsibility of the owner of any radio signaling system to notify the (~~division of industrial safety and health~~) department of labor and industries, immediately, if the signal system is:

- (a) Permanently retired (in what manner and date retired).
- (b) Sold (submit name and address of purchaser and date sold).
- (c) Removed from the state (name of state to which moved and date moved).
- (d) Stolen (date).

(10) Two operable transmitters shall be carried by separate individuals at the point where chokers are being set at all times when transmitters are being used for tone signaling by persons around the live rigging in the choker setting area. Only one radio transmitter shall be required if in the possession of a signalperson who has no other duties and remains in an area where there are no hazards created by the moving rigging or logs. If the total crew consists of a yarder operator and one person in the rigging, only one transmitter is required provided a positive system is instituted and used to check on the well-being of the person in the rigging.

(11) When interference, overlap, fadeout, or blackout of radio signals is encountered, the use of the device shall be discontinued immediately. The use of the device shall not be resumed until the source of trouble has been detected and corrected.

(12) All radio signaling systems put into use for the first time after the effective date of these safety standards, shall meet or exceed the minimum performance specifications contained in WAC 296-54-607 of these safety standards, and, when altered or repaired, shall continue to meet such specifications.

(13) At least one make and model of each signaling system shall be tested and certified that it meets or exceeds the minimum requirements for performance as specified in WAC 296-54-607. A copy of such performance report shall be signed by the person or persons who tested the unit or components and shall be sent to the (~~Division of Industrial Safety and Health~~) Department of Labor and Industries, P.O. Box ((207)) 44655, Olympia, Washington ((98504)) 98504-4655.

(14) Radio equipment shall not be used without displaying a permit as required by this standard. The permit shall be prominently displayed on the outside case of the receiver of the unit or, for radio controlled carriages, on the transmitter in the yarder.

(15) Adjustments, repairs, or alterations of radio signaling devices shall be done only by or under the immediate supervision and responsibility of a person holding a first-class or second-class commercial radio operator's license,

either radio-telephone or radio-telegraph, issued by the Federal Communications Commission. Persons who do not possess the technical ability or do not have the proper equipment to cause the signaling systems to function within required tolerances shall not attempt to repair, alter, or adjust such systems.

(16) Radio frequencies assigned to systems for which voice communications may be used to give signals to the yarder operator, shall not be the same frequencies as those assigned for whistle signals used in skyline, highlead, slackline, or cable skidder systems.

(17) When hazardous interference is created by moving a voice communication system into an area where a system is already in use on the same frequency, use of the newly-moved system shall be immediately discontinued until the problem of interference has been corrected.

(18) Before moving any unit from one assigned geographical area to another (see area map, Figure 10 following this section), a new permit shall be applied for and secured from the (~~Division of Industrial Safety and Health,~~) Department of Labor and Industries, P.O. Box ((207)) 44655, Olympia, Washington ((98504)) 98504-4655.

PROPOSED

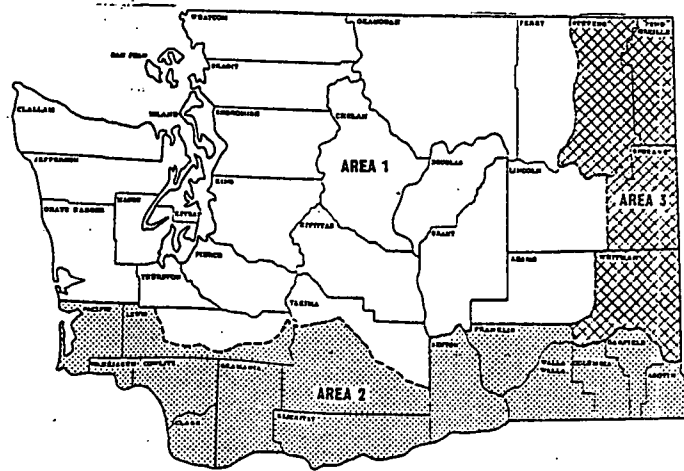
STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES CONSULTATION AND COMPLIANCE SERVICES
APPLICATION FOR PERMIT
TO OPERATE RADIO SIGNAL SYSTEM IN DESIGNATED AREA

Radio Carrier Frequency _____ Serial No. _____
Tone Coding Frequency _____ Hz _____ Name of Manufacturer of Signal System _____
Firm Name _____ Address _____ By _____
Intended Function of Unit: Voice communication Whistle signal Control Equipment
Area in which Unit will be Operated: _____ 1 _____ 2 _____ 3
(Area map included in Safety Standards for Logging Operations)
Type of Tone: Sequential Simultaneous If other specify type _____
System to be Used For: Grapple Skyline, Highlead, Slackline, Skidder Balloon
System Purchased or Acquired From: _____
Date System Purchased or Acquired: Day _____ Month _____ Year _____
Mail Permit to: _____
Date Application Mailed to Division of Safety: Day / Mo. / Year _____
Date Permit Issued _____
Dept use only

Figure No. 10
STATE OF WASHINGTON
DEPT. OF LABOR & INDUSTRIES CONSULTATION AND COMPLIANCE SERVICES
PERMIT # _____
TO OPERATE MULTI-TONE RADIO SIGNAL SYSTEM
IN DESIGNATED AREA.
Model _____ Serial _____
Carrier Frequency _____ MHz
Tones _____ Hz
AREA
Firm Name _____
Issued by _____
S. P. No. 118 - (2-71) - 29C - 20416

AREAS FOR USE OF RADIO SIGNALING SYSTEMS FOR LOGGING OPERATIONS

PROPOSED



State of Washington
 Department of Labor and Industries
 Division of Industrial Safety and Health

A permit issued by the (~~division of industrial safety and health~~) department of labor and industries shall be attached to the outside of the receiver which shall indicate the area in which the radio signaling equipment may be used.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-54-45001 Pulpwood logging.

WSR 96-09-102
PROPOSED RULES
HEALTH CARE AUTHORITY
 [Filed April 17, 1996, 11:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-22-072.

Title of Rule: Washington basic health plan.

Purpose: Establishes rules for determining benefits, eligibility, enrollment processes and for administering the Washington basic health plan.

Proposed

Statutory Authority for Adoption: RCW 70.47.050.
 Statute Being Implemented: Chapter 70.47 RCW.

Summary: Updating basic health plan rules and adding new rules for group enrollment, to be consistent with current legislative mandates. Repealing chapter 55-01 WAC and amending Title 182 WAC to include revised basic health plan rules for individual enrollment formerly under chapter 55-01 WAC to reflect the merger of basic health plan and Health Care Authority.

Reasons Supporting Proposal: Incorporates responses to public comment received after previous filing of draft rules.

Name of Agency Personnel Responsible for Drafting: Rosanne Reynolds, Lacey, Washington, (360) 923-2948; Implementation and Enforcement: Linda Melton, Lacey, Washington, (360) 923-2996.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Relocates basic health plan rules to Health Care Authority rules to reflect the administrative merger with the Health Care Authority. Incorporates changes in response to public comment after previous filing, updates basic health

plan's rules on individual enrollment to reflect statutory changes from the 1995 legislative session and adds rules for group enrollment in basic health plan to facilitate achieving the legislative goal of enrolling 100,000 adults through their employers by June 30, 1997.

Proposal Changes the Following Existing Rules: Existing rules are updated to reflect current legislative mandates, increase compatibility with Department of Social and Health Services requirements, and add rules for group enrollment.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required. The Joint Administrative Rules Review Committee has not requested the filing of a small business economic impact statement, and costs to businesses will be negligible.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 does not apply to Health Care Authority unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Hearing Location: Health Care Authority, 676 Woodland Square Loop S.E., Building B, 3rd Floor Conference Room, Lacey, WA 98504, on May 22, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Nikki Woehl or Julie Dickenson by May 15, 1996, (360) 923-2805 or (360) 923-2817.

Submit Written Comments to: Rosanne Reynolds, P.O. Box 42683, Olympia, WA 98504-2683, FAX (360) 923-2610, by May 31, 1996.

Date of Intended Adoption: July 8, 1996.

April 16, 1996

Elin Meyer

Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 55-01-001 Authority.
- WAC 55-01-010 Definitions.
- WAC 55-01-020 Schedule of benefits.
- WAC 55-01-030 Premiums and copayments.
- WAC 55-01-040 Eligibility.
- WAC 55-01-050 Enrollment in the plan.
- WAC 55-01-060 Disenrollment from the plan.
- WAC 55-01-070 Hearings and grievances.
- WAC 55-01-080 Contracts with managed health care systems.

Chapter 182-25 WAC WASHINGTON BASIC HEALTH PLAN

NEW SECTION

WAC 182-25-001 Authority. The administrator's authority to promulgate and adopt rules is contained in RCW 70.47.050.

NEW SECTION

WAC 182-25-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the administrator of the Washington state health care authority (HCA) or designee.

(2) "Appeal procedure" means a formal written procedure for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction.

(3) "Basic health plan" (or BHP) means the system of enrollment and payment on a prepaid capitated basis for basic health care services administered by the administrator through managed health care systems.

(4) "BHP plus" means the program of expanded benefits available to children through coordination between the department of social and health services (DSHS) and basic health plan. To be eligible for the program children must be under age nineteen, with a family income at or below two hundred percent of federal poverty level, as defined by the United States Department of Health and Human Services. They must be Washington state residents, not eligible for Medicare, and may be required to meet additional DSHS eligibility requirements.

(5) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a health care provider or to the MHCS.

(6) "Covered services" means those services and benefits in the BHP schedule of benefits (as outlined in the member handbook issued to the enrollee, or to a subscriber on behalf of the enrollee), which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments.

(7) "Disenrollment" means the termination of covered services in BHP for a subscriber and dependents, if any.

(8) "Effective date of enrollment" means the first date, as established by BHP, on which an enrollee is entitled to receive covered services from the enrollee's respective managed health care system.

(9) "Dependent." The following are eligible as dependents under 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 one of the following: A natural child, stepchild or legally adopted child of a subscriber; or a child who has been placed with a subscriber pending adoption or is under legal guardianship of a subscriber.

(ii) Younger than age twenty-three and is a registered student in full-time attendance at an accredited secondary school, college, university, technical college or school of nursing. Dependent student eligibility continues year-round, including the quarter or semester following graduation, for those who attend full time (except for school holidays and scheduled spring and summer breaks) 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.

(c) Legal dependent of any age who is incapable of self-support due to disability.

(10) "Eligible full-time employee" means an employee who meets all eligibility requirements in WAC 182-25-030 and who is regularly scheduled to work thirty or more hours per week for an employer. The term includes a self-employed individual (including a sole proprietor or a partner of a partnership, and may include an independent contractor) if the individual:

(a) Is regularly scheduled to work thirty hours or more per week; and

(b) Derives at least seventy-five percent of his or her income from a trade or business that is licensed to do business in Washington.

Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements.

(11) "Eligible part-time employee" means an employee who meets all the criteria in subsection (10) of this section, but who is regularly scheduled to work fewer than thirty hours per week for an employer.

(12) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(13) "Employer" means an enterprise licensed to do business in Washington state, as defined by RCW 50.04.080.

(14) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in BHP, and for whom applicable premium payments have been made.

(15) "Family" means an individual or an individual and spouse, if not legally separated, and dependents. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

(16) "Financial sponsor" means a person, organization or other entity, approved by the administrator, that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any dependents.

(17) "Gross family income" means total cash receipts, as defined in (a) of this subsection, before taxes, from all sources, for subscriber and dependents whether or not they are enrolled in BHP, with the exceptions noted in (b) of this subsection.

(a) Income includes:

(i) Money wages, tips and salaries before any deductions;

(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, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance, alimony, child support, military family allotments, private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments;

(v) Work study or training stipends;

(vi) College or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash;

(vii) Dividends and interest accessible to the enrollee without a penalty;

(viii) Net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

(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);

(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 noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance;

(v) Income earned by dependent children;

(vi) Income of a family member who resides in another household when such income is not available to the subscriber or dependents seeking enrollment in BHP;

(vii) University scholarships, grants, fellowships and assistantships if not convertible to cash;

(viii) Documented child care expenses for the care of a dependent child of a subscriber may be deducted (at a rate set by the administrator and consistent with Internal Revenue Service requirements) when calculating gross family income. To qualify for this deduction, the subscriber must be employed during the time the child care expenses were paid, and payment may not be paid to a parent or step parent of the child or to a dependent child of the subscriber or his/her spouse.

(18) "Home care agency" means a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence, and is licensed by the department of social and health services (DSHS) as a home care agency. In order to qualify, the agency must be under contract with one of the following DSHS programs: Chore, Medicaid Personal Care, Community Options Program Entry System (COPES) or Respite Care (up to level three).

(19) "Insurance broker" or "agent" means a person who is currently licensed as a life and disability insurance broker or agent, according to the laws of the office of the insurance commissioner under chapter 48.17 RCW.

(20) "Managed health care system" (or "MHCS") means any health care organization (including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof) which has entered into a contract with the HCA to provide basic health care services.

(21) "Medicaid" means the Title XIX Medicaid program administered by the department of social and health services, and includes the medical care programs provided to the

"categorically needy" and the "medically needy" as defined in chapter 388-503 WAC.

(22) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(23) "Nonsubsidized enrollee" or "full premium enrollee" means an individual who enrolls in BHP, as the subscriber or dependent, and who pays or on whose behalf is paid the full costs for participation in BHP, without subsidy from the HCA.

(24) "Open enrollment" means a time period designated by the administrator during which enrollees may enroll additional dependents or apply to transfer their enrollment from one managed health care system to another. There shall be at least one annual open enrollment period of at least twenty consecutive days.

(25) "Participating employee" means an employee of a participating employer or home care agency who has met all the eligibility requirements and has been enrolled for coverage under BHP.

(26) "Participating employer" means an employer who has been approved for enrollment in BHP as an employer group.

(27) "Preexisting condition" means any illness, injury or condition for which, in the three months immediately preceding an enrollee's effective date of enrollment in BHP:

(a) Treatment, consultation or a diagnostic test was recommended for or received by the enrollee; or

(b) The enrollee was prescribed or recommended medication; or

(c) Symptoms existed which would ordinarily cause a reasonably prudent individual to seek medical diagnosis, care or treatment.

(28) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which an individual, their employer or a financial sponsor makes to BHP for subsidized or nonsubsidized enrollment in BHP.

(29) "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.

(30) "Rate" means the per capita amount, including administrative charges and any applicable premium and prepayment tax imposed under RCW 48.14.020, negotiated by the administrator with and paid to a managed health care system, to provide BHP health care benefits to enrollees.

(31) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, as described in the member handbook.

(32) "Service area" means the geographic area served by a managed health care system as defined in its contract with HCA.

(33) "Subscriber" is a person who applies to BHP on his/her own behalf and/or on behalf of his/her dependents, if any, who meets all applicable eligibility requirements, is enrolled in BHP, and for whom the monthly premium has been paid. Notices to a subscriber and, if applicable, a financial sponsor or employer shall be considered notice to the subscriber and his/her enrolled dependents.

(34) "Subsidized enrollee" or "reduced premium enrollee" means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA.

(35) "Subsidy" means the difference between the amount of periodic payment the HCA makes to a managed health care system on behalf of a subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

NEW SECTION

WAC 182-25-020 BHP benefits. (1) The administrator shall design and from time to time may revise BHP benefits, according to the requirements of chapter 70.47 RCW, as amended. These benefits will include physician services, prescription drugs and medications, and inpatient and outpatient hospital services, limited mental health care services, limited chemical dependency services, limited organ transplant services, and all services necessary for prenatal, postnatal and well-child care, and will emphasize proven preventive and primary care services. The Medicaid scope of benefits may be provided by BHP as the BHP plus program through coordination with DSHS for children under the age of nineteen, who are found to be Medicaid eligible. BHP benefits may include co-payments, waiting periods, limitations and exclusions which the administrator determines are appropriate and consistent with the goals and objectives of the plan. BHP benefits will be subject to a three-month waiting period for preexisting conditions. Credit toward the waiting period will be given for any continuous period of time for which an enrollee was covered under similar health coverage if that coverage was in effect at any time during the three-month period immediately preceding the date of application for coverage under BHP. A list of BHP benefits, including co-payments, waiting periods, limitations and exclusions, will be provided to the subscriber.

(2) In designing and revising BHP benefits, the administrator will consider the effects of particular benefits, co-payments, limitations and exclusions on access to necessary 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) Prior to enrolling in BHP, each applicant will be given a written description of covered benefits, including all co-payments, waiting periods, limitations and exclusions, and be advised how to access 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 service area.

(4) BHP will mail to all subscribers written notice of any changes in the amount and scope of benefits provided under BHP, or policy changes regarding premiums and co-payments at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect. The administrator may make available a separate schedule of benefits for children, eighteen years of age and younger, for those dependent children in the plan.

NEW SECTION

WAC 182-25-030 Eligibility. (1) To be eligible for enrollment in BHP, an individual must:

- (a) Not be eligible for Medicare; and
- (b) Reside within the state of Washington.

Persons not meeting these criteria, as evidenced by information submitted on the application for enrollment or otherwise obtained by BHP, will not be enrolled. An enrollee who subsequently fails to meet these criteria, or who is later determined to have failed to meet the criteria at the time of enrollment, will be disenrolled from the plan as provided in WAC 182-25-090.

(2) To be eligible for subsidized enrollment in BHP, an individual must have a gross family income that does not exceed two hundred percent of federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services, and must pay, or have paid on their behalf, the monthly BHP premium.

(3) To be eligible for nonsubsidized enrollment in BHP, an individual may have any income level and must pay, or have paid on their behalf, the full costs for participation in BHP, including the cost of administration, without subsidy from the HCA.

(4) An individual otherwise eligible for enrollment in BHP may be denied enrollment if the administrator has determined that acceptance of additional enrollment would exceed limits established by the legislature, would jeopardize the orderly development of BHP or would result in an overexpenditure of BHP funds. In the event that the administrator closes enrollment, BHP will continue to accept applications for enrollment, but will not process those applications for determination of eligibility. BHP will place the names of applicants on a waiting list in the order in which applications are received, and will so notify the applicants. In the event that enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by BHP of the opportunity to enroll. BHP 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.

NEW SECTION

WAC 182-25-040 Enrollment in the plan. (1) Any individual applying for enrollment in BHP must submit a signed, completed 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 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 member handbook. Applications for subsidized enrollment on behalf of children under the age of nineteen shall be referred to the department of social and health services for Medicaid eligibility determination, unless the family chooses not to access this option.

(2) Each applicant shall list all eligible dependents to be enrolled and supply other information and documentation as

required by BHP and, where applicable, DSHS medical assistance.

(a) Documentation will be required, showing the amount and sources of the applicant's gross family income. Acceptable documentation will include a copy of the applicant's most recently filed federal income tax form, and/or other documentation that shows year-to-date income, or income for the most recent thirty days or complete calendar month as of the date of application. An average of documented income received over a period of several months may be used for purposes of eligibility determination. Income documentation shall be required for the subscriber and dependents, with the exceptions listed under WAC 182-25-010 (18)(b).

(b) Documentation of Washington state residency shall also be required, displaying the applicant's name and address. Other documentation may be accepted if the applicant does not have a physical residence.

(c) BHP may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or managed health care system selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in BHP. Intentional submission of false information may result in disenrollment of the subscriber and all enrolled dependents.

(3) Each family applying for enrollment must designate a managed health care system from which the applicant and all enrolled dependents will receive covered services. All applicants from the same family must receive covered services from the same managed health care system (with the exception of cases in which a subscriber who is paying child support for his/her dependents lives in a different service area). No applicant will be enrolled for whom designation of a 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) Managed health care systems may assist BHP applicants in the enrollment process, but must provide them with the toll-free number for BHP, information on all MHCS available within the applicant's county of residence and an estimate of the premium the applicant would pay for each available MHCS.

(5) Insurance brokers or agents who have met all statutory and regulatory requirements of the office of the insurance commissioner, are currently licensed through the office of the insurance commissioner, and who have completed BHP's training program, will be paid a commission for assisting eligible applicants to enroll in BHP.

(a) Individual policy commission: Subject to availability of funds, and as a pilot program, BHP will pay a one-time fee to any currently licensed insurance broker or agent who sells BHP to an eligible individual applicant if that applicant has never been a BHP member in the past.

(b) Group policy commission: Subject to availability of funds, fees established by the administrator for the sale of BHP group coverage to an eligible employer will be based

on the number of employees in the group for the first twelve months of the group's enrollment.

(c) Insurance brokers or agents must provide the prospective applicant with the BHP toll-free information number and inform them of BHP benefits, limitations, exclusions, waiting periods, co-payments, all managed health care systems available to the applicant within his/her county of residence and the estimated premium for each of them.

(d) All statutes and regulations of the office of the insurance commissioner will apply to brokers or agents who sell BHP, except they will not be required to be appointed by the MHCS.

(e) BHP will not pay renewal commissions.

(6) Except as provided in WAC 182-25-030(4), applications for enrollment will be reviewed by BHP 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.

(7) Eligible applicants will be enrolled in BHP in the order in which their completed applications, including all required documentation, have been received by BHP, provided that the applicant also remits full payment of the first premium bill to BHP by the due date specified by BHP.

(8) Not all family members are required to apply for enrollment in 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 member until the next open enrollment period, unless the subscriber has experienced a qualifying change in family status:

(a) The loss of other continuous health care coverage, for family members who have previously waived coverage, upon proof of continuous medical coverage from the date the subscriber enrolled;

(b) Marriage; or

(c) Birth, adoption or change in dependency or custody of a child or adult dependent. Eligible newborn or newly adopted children may be enrolled effective from the date of birth or physical placement for adoption provided that application for enrollment is submitted to BHP within sixty days of the date of birth or such placement for adoption.

(9) Any enrollee who voluntarily disenrolls from BHP for reasons other than ineligibility or other health care coverage may not reenroll for a period of twelve months from the effective date of disenrollment. After the twelve-month period, or if the enrollee disenrolled for reasons of ineligibility or other health care coverage, he/she may reenroll in BHP, subject to portability and preexisting condition policies as referenced in WAC 182-25-020(1) and specified in the member handbook, provided he/she is determined by BHP to be otherwise eligible for enrollment as of the date of application. With the exception of enrollees under group coverage, enrollees who are disenrolled from BHP for nonpayment, in accordance with WAC 182-25-090(2), more than twice in a twelve-month period, and who have a lapse in coverage of one month or more, may not reenroll for a period of twelve months from the effective date of the third disenrollment.

(10) On a schedule approved by the administrator, BHP will request verification of information from all or a subset of enrollees ("recertification"), requiring new documentation

of income if the enrollee has had a change in income that would result in a different subsidy level. For good cause, BHP may require recertification on a more widespread or more frequent basis. Enrollees who fail to comply with a recertification request will be disenrolled from BHP. Each enrollee is responsible for notifying BHP within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility. If, as a result of recertification, BHP determines that a subsidized enrollee's income exceeds twice the poverty level according to the federal income guidelines, and that the enrollee knowingly failed to inform BHP of such increase in income, BHP 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.

NEW SECTION

WAC 182-25-050 Employer groups. (1) BHP will accept applications for group enrollment in BHP from business owners, their spouses and eligible dependents, and on behalf of their eligible full-time and/or part-time employees, their spouses and eligible dependents.

(2) With the exception of home care agencies (see WAC 182-25-060(2)), the employer must enroll at least seventy-five percent of all eligible employees within a classification of employees in the basic health plan, and the employer must not offer other health care coverage to the same classification of employees. For purposes of this section, a "classification of employees" will be defined as a subgroup of employees (for example, part-time employees, full-time employees or bargaining units). Employees who demonstrate in the application process that they have health care coverage from other sources, such as their spouse or a federal program, shall be excluded from the minimum participation calculation.

(3) BHP may require a minimum financial contribution from the employer for each enrolled employee.

(4) The employer will provide the employees the complete choice of BHP managed health care systems available within the employee's county of residence.

(5) The employer will pay all or a designated portion of the premium, as determined by the administrator, on behalf of the enrollee. It is the employer's responsibility to collect the employee's portion of the premium and remit the entire payment to BHP and to notify BHP of any changes in the employee's account.

(6) In the event that all or a portion of an employer group will be disenrolled, the employer must notify the affected employee(s) prior to the disenrollment, and must inform them of the opportunity to convert their BHP group membership to individual account(s).

(7) Employees enrolling in BHP must meet all BHP eligibility requirements as outlined in WAC 182-25-030.

NEW SECTION

WAC 182-25-060 Home care agencies. BHP will accept applications from home care agencies under contract with the department of social and health services (DSHS) for group enrollment in BHP, with premiums paid by the home care agency or DSHS or a designee, under the provisions for

employer groups, WAC 182-25-050, with the following exceptions or additions:

(1) To qualify for premium reimbursement through DSHS, home care agencies who enroll under the provisions of this section must be under current contract with DSHS as a home care agency, as defined by DSHS.

(2) Home care agencies need not enroll at least seventy-five percent of all eligible employees in the basic health plan, and home care agencies may offer other coverage to the same classification of employees.

(3) Home care agencies need not make a minimum financial contribution for each enrolled employee.

(4) Home care agencies are not subject to WAC 182-25-050(5).

(5) Individual home care providers may enroll in BHP as individuals.

NEW SECTION

WAC 182-25-070 Financial sponsors. (1) A third party may, with the approval of the administrator, become a financial sponsor to BHP enrollees. Financial sponsors may not be a state agency or a managed health care system.

(2) The financial sponsor will establish eligibility for participation in that particular financial sponsor group; however, sponsored enrollees must meet all BHP eligibility requirements as outlined in WAC 182-25-030.

(3) The financial sponsor will pay all or a designated portion of the premium on behalf of the sponsored enrollee. It is the financial sponsor's responsibility to collect the enrollee's portion of the premium, if any, and remit the entire payment to BHP and to notify BHP of any changes in the sponsored enrollee's account.

(4) A financial sponsor must inform sponsored enrollees and BHP of the minimum time period for which they will act as sponsor. At least sixty days before the end of that time period, it is the responsibility of the financial sponsor to notify sponsored enrollees and BHP if the sponsorship will or will not be extended.

(5) A financial sponsor must not discriminate for or against potential group members based on health status, race, color, creed, political beliefs, national origin, religion, age, sex or disability.

(6) A financial sponsor may choose the managed health care system available to sponsored enrollees who participate in that financial sponsor group; however, the sponsor must disclose to the sponsored enrollee all the managed health care systems within the enrollee's county of residence, the estimated premiums for each of them, and the BHP toll-free information number.

(7) BHP may periodically conduct a review of the financial sponsor group members to verify the eligibility of all enrollees.

NEW SECTION

WAC 182-25-080 Premiums and co-payments. (1) Subscribers or their employer or financial sponsor shall be responsible for paying the full monthly premium to BHP, on behalf of the subscriber and all enrolled dependents, according to the most current premium schedule. 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 a subscriber and dependents, if any.

(2) The amount of premium due from or on behalf of a subscriber will be based upon the subscriber's gross family income, the managed health care system selected by the subscriber, rates payable to managed health care systems, and the number and ages of individuals in the subscriber's family.

(3) Once BHP has determined that an applicant and his/her dependents (if any) are eligible for enrollment, the applicant or employer or financial sponsor will be informed of the amount of the first month's premium for the applicant and his/her enrolled dependents. New enrollees will not be eligible to receive covered services on the effective date of enrollment specified by BHP unless the premium has been paid. Thereafter, BHP will bill each subscriber or employer or financial sponsor monthly.

(4) Full payment for premiums due must be received by BHP by the date specified on the bill. If BHP does not receive full payment of a premium by the date specified on the bill, BHP shall issue a notice of delinquency to the subscriber, at the subscriber's last address on file with BHP or, in the case of group or financial sponsor coverage, to the employer or financial sponsor. 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, as provided in WAC 182-25-090(2). Partial payment of premiums due or payment by check which is returned due to nonsufficient funds will be regarded as nonpayment.

(5) Enrollees shall be responsible for paying any required co-payment directly to the provider of a covered service at the time of service or directly to the MHCS. Repeated failure to pay co-payments in full on a timely basis may result in disenrollment, as provided in WAC 182-25-090(2).

NEW SECTION

WAC 182-25-090 Disenrollment from BHP. (1) An enrollee or employer group may disenroll effective the first day of any month by giving BHP at least ten days prior written notice of the intention to disenroll. Reenrollment in BHP shall be subject to the provisions of WAC 182-25-040(9). 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 shall be considered an indication of the enrollee's intention to disenroll from BHP.

(2) BHP may disenroll any enrollee or group from BHP for good cause, which shall include:

(a) Failure to meet the eligibility requirements set forth in WAC 182-25-030, 182-25-050, 182-25-060, and 182-25-070;

(b) Nonpayment of premium;

(c) Repeated failure to pay co-payments in full on a timely basis;

(d) Fraud or knowingly providing false information;

(e) Abuse or intentional misconduct; and

(f) Refusal to accept or follow procedures or treatment determined by a MHCS to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of BHP 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.

In the event that an employer group, a home care agency group or a financial sponsor group is disenrolled under these provisions, the employer or sponsor will be notified of the disenrollment. The employer or sponsor must notify all group members of the disenrollment and inform them of the opportunity to convert their BHP membership to individual accounts. BHP will make every effort to transfer the enrollees to individual accounts without a break in coverage; however, the enrollee will be responsible for ensuring that payment is received by BHP prior to the final disenrollment date for that month.

Enrollees who are disenrolled from BHP in accordance with (c), (d), (e) or (f) of this subsection may not reenroll for a period of twelve months from the effective date of disenrollment. With the exception of enrollees under group coverage, enrollees who are disenrolled from BHP for nonpayment, in accordance with (b) of this subsection, more than twice in a twelve-month period, and who have a lapse in coverage of one month or more, may not reenroll for a period of twelve months from the effective date of the third disenrollment.

BHP shall provide the enrollee or the parent, legal guardian or sponsor of an enrolled dependent 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 182-25-100. Prior to the effective date specified, if the enrollee submits an appeal to BHP contesting the disenrollment decision, as provided in WAC 182-25-105, disenrollment shall not become effective until the date, if any, established as a result of BHP's 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 create a risk of violent, aggressive or harassing 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 enrollee who knowingly provides false information to BHP or to a participating managed health care system may be disenrolled by BHP and may be held financially responsible for any covered services fraudulently obtained through BHP.

NEW SECTION

WAC 182-25-100 Appeals and mediation of grievances. (1) HCA decisions regarding basic health plan eligibility, premium, enrollment, disenrollment or change of MHCS may be appealed pursuant to WAC 182-25-105.

(2) The HCA will not hear appeals of decisions regarding children covered under BHP plus. Those decisions must

be appealed through the department of social and health services, according to the provisions of chapters 388-08 and 388-526 WAC, as amended.

(3) Decisions made by a MHCS, such as coverage disputes or benefits interpretation may be appealed pursuant to WAC 182-25-110.

NEW SECTION

WAC 182-25-105 Appeals of HCA decisions regarding BHP. (1) If a subscriber or applicant wishes to appeal a HCA decision regarding BHP eligibility, premium, enrollment, disenrollment or change of MHCS, he/she must send a letter of appeal, signed by the appealing party, to the HCA appeals committee no more than thirty days after the date the HCA's decision was sent to the subscriber or applicant. The letter should include the name, address and BHP account number of the enrollee and subscriber or the applicant and a statement of:

- (a) The decision being appealed;
- (b) Why the enrollee considers the decision to be incorrect; and
- (c) The facts upon which the appeal is based, including any supporting documents.

(2) When the letter of appeal is received, the HCA appeals coordinator will contact the subscriber to explain his/her appeal rights and the appeal procedure used by the HCA appeals committee to conduct a brief adjudicative proceeding pursuant to RCW 34.05.482 through 34.05.494, as amended. Generally, the appeal will be limited to a review of submitted documents, but may also include a telephone or in-person conference. The HCA appeals committee will send its written initial decision to the subscriber or applicant within sixty days of receipt of the subscriber's or applicant's letter of appeal. The written initial decision will include reasons for the decision and information and instructions on further appeal rights. The appeals committee may also elect to convert the brief adjudicative proceeding to a formal adjudicative proceeding when it is more appropriate to resolve issues affecting the participants, and refer the appeal to the hearing officer.

(3) An enrollee may request a hearing of the HCA appeals committee decision which results in disenrollment by the office of administrative hearings, pursuant to chapter 34.12 RCW, as amended. An enrollee or applicant may request review of all other initial decisions of the HCA appeals committee by a HCA hearings officer, pursuant to RCW 34.05.488 through 34.05.494, as amended. A request for review of the initial decision must be made in writing within twenty-one days after service of the written statement as required by RCW 34.05.485(3), as amended. Otherwise, the HCA appeals committee decision will be the final agency decision.

(4) If the HCA receives a timely appeal of a disenrollment decision, disenrollment shall not become effective pending the resolution of the appeal, provided that:

- (a) The enrollee otherwise remains eligible and continues to make all premium payments when due (if the premium amount is the subject of the dispute, the premium will be billed at the rate the subscriber was paying prior to the dispute);

(b) The enrollee does not create a risk of violent, aggressive or harassing behavior, assault or battery or purposeful damage to or theft of MHCS property, or the property of staff or providers, patients or visitors while on the property of the MHCS or one of its participating providers.

NEW SECTION

WAC 182-25-110 Appeals of MHCS decisions. (1) Disputes arising between enrollees and the managed health care system in which they are enrolled, such as coverage disputes or benefits interpretation, are considered to be contractual disputes between those parties. Every MHCS is required to maintain a grievance/appeals process for enrollees, providing for resolution by MHCS personnel with authority to require corrective action, including but not limited to review by appropriate medical personnel of complaints regarding quality of care or access to urgently needed services. The MHCS will make available information on its grievance/appeals process through its customer service department.

(2) The enrollee must exhaust the grievance/appeals process through the MHCS.

(a) If an issue is not resolved through that process within a reasonable time, or if the MHCS has not replied in writing to the enrollee within thirty days of receiving his/her written grievance/appeal, the enrollee may send a letter of appeal to the HCA appeals committee, requesting the HCA to inquire as to the status of the grievance/appeal. The HCA may initiate informal dispute resolution aimed at achieving a resolution satisfactory to the MHCS and the enrollee. In the event informal dispute resolution is unable to resolve the issue, the grievance/appeal will be reviewed by the HCA appeals committee.

(b) If the MHCS decision is not satisfactory to the enrollee, and the enrollee has not previously requested HCA assistance with the issue, the enrollee may send a letter of appeal to the HCA appeals committee. The letter of appeal must be received by the HCA no more than thirty days after the MHCS written notice of the decision is sent.

(3) When the letter of appeal is received, the HCA appeals coordinator will contact the subscriber to explain his/her appeal rights and the appeal procedure used by the HCA appeals committee to conduct a brief adjudicative proceeding pursuant to RCW 34.05.482 through 34.05.494, as amended. Generally, the appeal will be limited to a review of submitted documents, but may also include a telephone or in-person conference. The HCA appeals committee will send its written initial decision to both parties in the appeal, including the reasons for the decision, within sixty days of scheduling the appeal and, if the decision supports the MHCS position, will advise the enrollee of further appeal rights. The appeals committee may also elect to convert the brief adjudicative proceeding to a formal adjudicative proceeding when it is more appropriate to resolve issues affecting the participants, and refer the appeal to the hearing officer. A HCA appeals committee decision which differs from the MHCS decision shall prevail and the MHCS shall perform in accordance to the HCA appeals committee decision.

(4)(a) If the HCA appeals committee agrees with the MHCS decision, the enrollee may request review of the HCA appeals committee decision by the HCA hearings officer. This request for review of the decision must be received no more than twenty-one days after the date of the HCA appeals committee decision.

(b) If the decision of the HCA appeals committee disagrees with the MHCS decision, the MHCS may request a dispute hearing with the HCA administrator, according to the terms of the contract between the MHCS and the HCA.

**WSR 96-09-104
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Filed April 17, 1996, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-068.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial fishing rules for 1996 coastal harbor salmon net season.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Coastal salmon harvest is being set at a level that provides escapement.

Reasons Supporting Proposal: Conservation of salmon stocks.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, WA, 902-2930; Implementation: Rich Lincoln, 1111 Washington Street, Olympia, WA, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, WA, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These proposals will allow for a salmon harvest in coastal harbors, while preserving escapement for brood stock salmon.

Proposal Changes the Following Existing Rules: Harvest dates.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The harvest level is set under guidelines established by the Pacific Fisheries Management Council. The allowable harvest is not subject to change, only the dates in which fishing may occur. The number of fishers is low, currently under six percent of the fleet, thus reducing the effect on commercial fishers as a group. No mitigation is possible as all salmon gill net fishing is under moratorium. The department does not have the ability to reduce the effect on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Woodworker's Local Lodge, 201 East Ellis, Raymond, WA, on May 23, 1996, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayers by May 8, 1996, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501, FAX (360) 902-2942, by May 22, 1996.

Date of Intended Adoption: May 30, 1996.

April 17, 1996
Brad Young
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 95-76, filed 6/19/95, effective 7/20/95)

WAC 220-36-021 Salmon—Grays Harbor—Summer fishery. From July 5 through August 15 of ~~((1995))~~ 1996, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 95-76, filed 6/19/95, effective 7/20/95)

WAC 220-36-023 Grays Harbor salmon—Fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes, except that:

Fishing period

(1) Gill net gear may be used to fish for salmon from 6:00 a.m. to 6:00 p.m. each day September 16 through September 20, ((6:00 a.m. to 6:00 p.m. September 22, 6:00 a.m. to 6:00 p.m. September 24, 6:00 a.m. to 6:00 p.m. September 26, 6:00 a.m. to 6:00 p.m. September 28, and 6:00 a.m. to 6:00 p.m.)) September 23 through September 27, and September 30, ((1995)) 1996, in SMCRA 2C.

(2) Gill net gear shall be used as provided for in WAC 220-36-015.

AMENDATORY SECTION (Amending Order 95-76, filed 6/19/95, effective 7/20/95)

WAC 220-40-021 Willapa Bay salmon—Summer fishery. From July 5 through August 15 of ~~((1995))~~ 1996, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 95-76, filed 6/19/95, effective 7/20/95)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing period

(1) Gill net gear may be used to fish for salmon from:

(a) 6:00 p.m. August 19 to 6:00 p.m. August 20, 6:00 p.m. August 22 to 6:00 p.m. August 23, 6:00 p.m. August 28 to 6:00 p.m. August 29, 6:00 p.m. September 4 to 6:00 p.m. September 5 and 6:00 p.m. September 11 to 6:00 p.m.

September ~~((14, 1995))~~ 12, 1996, in SMCRA 2J, 2K, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12, and that portion of SMCRA 2H west of Willapa Channel Marker 35;

(b) 6:00 p.m. September 19 to 6:00 p.m. October 14, 1995, in SMCRA 2H, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12 and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2);

(c) 6:00 p.m. September ~~((21))~~ 19 to 6:00 p.m. September ~~((22))~~ 20, 6:00 p.m. September ~~((25))~~ 24 to 6:00 p.m. September ~~((26))~~ 25, 6:00 p.m. September ~~((28))~~ 26 to 6:00 p.m. September ~~((29))~~ 27, 6:00 p.m. October ~~((2))~~ 1 to 6:00 p.m. October ~~((3))~~ 2, 6:00 p.m. October ~~((5))~~ 3 to 6:00 p.m. October ~~((6))~~ 4, 6:00 p.m. October ~~((9))~~ 8 to 6:00 p.m. October ~~((10))~~ 9, and 6:00 p.m. October ~~((12))~~ 10 to 6:00 p.m. October ~~((13, 1995))~~ 11, 1996, in SMCRA 2K, and that part of SMCRA 2J south of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2).

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

Gear

(3) Gill net gear shall be used as provided in WAC 220-40-015 except that before 6:00 p.m. September 20, the maximum mesh size is 8-1/2 inches.

**WSR 96-09-105
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Filed April 17, 1996, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-068.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial fishing rules for 1996 Puget Sound salmon net season.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Adjust closed areas and exclusion zones. Seasonal amendments. Provide for an experimental beach seine fishery.

Reasons Supporting Proposal: Harvest available salmon.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, WA, 902-2930; Implementation: Rich Lincoln, 1111 Washington Street, Olympia, WA, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, WA, 902-2977.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adjustment of closed areas and exclusion zones will provide protection for milling salmon and reduce gear conflicts. Seasonal adjustments will provide fishing opportunity based on preseason forecasts and allow for brood stock escapement. An experimental beach seine fishery will allow selective harvest of coho salmon and release of chum stocks that are of concern. This will provide additional fishing opportunity.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposals are under guidelines proposed by the Pacific Fisheries Management Council, and are not subject to state regulatory change without federal agreement. The only variable is the dates of harvest, and no mitigation is possible because all salmon net fisheries are under limited entry. The department does not have the ability to reduce the effect on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Harbor Center Conference Room, 1801 Roeder Avenue, #140, Bellingham, WA, on May 29, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayers by May 14, 1996, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501, FAX (360) 902-2942, by May 28, 1996.

Date of Intended Adoption: June 5, 1996.

April 17, 1996
Brad Young
for Robert Turner
Director

AMENDATORY SECTION (Amending Order 95-75, filed 6/16/95, effective 7/17/95)

WAC 220-47-304 Puget Sound—All citizen salmon species seasons. The following are Puget Sound all citizens salmon species seasons listed by area and species:

(AREA	SPECIES	DATE	RANGE
7,7A:	FRASER SOCKEYE AND PINK CHUM	6/25 9/8	9/30 11/18
7B:	CHINOOK COHO CHUM	8/6 9/10 10/29	9/9 10/28 12/16
7C:	CHINOOK	8/6	10/14
8:	PINK CHUM	8/20 10/22	9/16 11/25
8A:	CHUM	10/22	12/2
8D:	COHO CHUM	9/24 11/12	11/11 12/16
9A:	COHO	9/17	11/4
10,11:	CHUM	10/15	11/20

12:	CHUM	10/15	11/20
12B:	CHUM	10/22	11/20
12C:	CHUM	10/29	11/27))
AREA	SPECIES	DATE	RANGE
6D:	COHO	9/22	10/26
7,7A:	FRASER SOCKEYE AND PINK CHUM	6/25 9/29	9/30 11/16
7B:	CHINOOK COHO CHUM	8/11 9/8 10/27	9/7 10/26 12/14
7C:	CHINOOK	8/11	10/12
8:	CHUM	10/27	11/30
8A:	CHUM	10/20	11/30
8D:	COHO CHUM	9/22 11/10	11/9 12/21
9A:	COHO	9/12	11/2
10:	CHUM	10/13	11/30
11:	COHO CHUM	9/8 10/13	10/12 11/30
12:	CHUM	10/20	11/20
12A:	COHO	9/1	10/12
12B:	CHUM	10/27	11/20
12C:	CHUM	10/27	11/30

AMENDATORY SECTION (Amending Order 95-75, filed 6/16/95, effective 7/17/95)

WAC 220-47-307 Closed areas—Puget Sound salmon. It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section shall not apply to reef net fishing areas listed in RCW 75.12.140:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within 1,000 feet of each mouth of the Dungeness River.

Area 7 - (1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point thence west to a point intercepting a line projected from the northernmost point of Jones Island thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

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(6) Those waters easterly of a line projected from Edith Point on Fidalgo Island to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the southwesternmost point of Fidalgo Head.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B - That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the southeastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 - (1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlenn Island.

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A - Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area 8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy thence to Forbes Landing wharf, east of Hansville.

Area 10 - (1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison northwest of a line from the Agate Pass entrance light to the light on the end of the Indianola dock.

(3) Additional coho seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Fourmile Rock and those waters northerly of a line projected from Point Wells to "SF" Buoy then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 - (1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the northernmost point of land on Point Defiance to the light at the mouth of Gig Harbor.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

Area 12A - Those waters ~~((north of a line projected from Fisherman's Point on the Bolton Peninsula to the boat haven at Quilcene and those waters))~~ north of a line projected due east from Broad Spit.

Area 12B - Those waters within 1/4 mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

Areas 12, 12A, and 12B - Additional chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

Areas 12, 12B and 12C - Those waters within ~~((1,000))~~ 2,000 feet of the eastern shore.

Area 12C - (1) Those waters within 1,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodspport marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4 mile of the mouth of the Dewatto River.

Areas 12, 12B, 12C, and 12D - Additional coho and chum seasonal closure: Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line, and those waters of Area ~~((s 12B, 12C, and))~~ 12D ~~((south of a line projected from Tekiu Point to Triton Head)).~~

Area 13A - Those waters of Burley Lagoon north of State Route 302, those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay including all waters of Minter Creek Bay, those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove, and those waters within 1/4 mile of Green Point.

AMENDATORY SECTION (Amending Order 95-75, filed 6/16/95, effective 7/17/95)

WAC 220-47-311 Purse seine—Open periods.
During ~~((1994))~~ 1996, it is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

((AREA	TIME	DATE	TIME	DATE
7, 7A:	7AM		6PM	10/23, 10/24
	6AM		5PM	10/31, 11/01, 11/02, 11/06, 11/07, 11/08, 11/09, 11/10
7B:	6AM	9/11	4PM	10/28
	6AM	10/30	4PM	11/03
	6AM	11/05	4PM	11/18
	6AM	11/20	4PM	11/22
	6AM	11/27	4PM	11/29
8:	5AM		9PM	8/28 8/30
	6AM		5PM	11/06
	7AM		5PM	11/14, 11/15, 11/20, 11/21, 11/22
8A, 8D:	7AM		6PM	10/23, 10/24
	6AM		5PM	10/31, 11/1, 11/02, 11/06, 11/07, 11/08
	7AM		5PM	11/14, 11/15, 11/16, 11/20, 11/21, 11/22

10, 11:	7AM	6PM	10/23
	6AM	5PM	10/31,
			11/06, 11/07
	7AM	5PM	11/14
12, 12B:	6AM	5PM	10/31,
			11/06, 11/07,
			11/14,
			11/15, 11/16))
<u>AREA</u>	<u>TIME</u>	<u>DATE</u>	<u>TIME</u> <u>DATE</u>
<u>7, 7A:</u>	<u>6AM</u>	<u>10/28</u>	<u>8PM</u> <u>10/29</u>
	<u>6AM</u>	<u>11/04</u>	<u>8PM</u> <u>11/06</u>
	<u>6AM</u>	<u>11/12</u>	<u>8PM</u> <u>11/14</u>
	<u>6AM</u>	<u>11/17</u>	<u>8PM</u> <u>11/23</u>
<u>7B:</u>	<u>6AM</u>	<u>9/09</u>	<u>8PM</u> <u>9/11</u>
	<u>6AM</u>	<u>9/15</u>	<u>4PM</u> <u>11/09</u>
	<u>6AM</u>	<u>11/11</u>	<u>4PM</u> <u>11/15</u>
	<u>6AM</u>	<u>11/18</u>	<u>4PM</u> <u>11/22</u>
	<u>6AM</u>	<u>11/25</u>	<u>4PM</u> <u>11/29</u>
	<u>6AM</u>	<u>12/02</u>	<u>4PM</u> <u>12/06</u>
	<u>6AM</u>	<u>12/09</u>	<u>4PM</u> <u>12/13</u>
<u>8:</u>	<u>7AM</u>	<u>11/18</u>	<u>5PM</u> <u>11/13</u>
	<u>6AM</u>	<u>11/18</u>	<u>8PM</u> <u>11/19</u>
	<u>6AM</u>	<u>11/25</u>	<u>8PM</u> <u>11/27</u>
<u>8A:</u>	<u>6AM</u>	<u>10/21</u>	<u>8PM</u> <u>10/22</u>
	<u>6AM</u>	<u>10/28</u>	<u>8PM</u> <u>10/29</u>
	<u>6AM</u>	<u>11/04</u>	<u>8PM</u> <u>11/06</u>
	<u>6AM</u>	<u>11/12</u>	<u>8PM</u> <u>11/14</u>
	<u>6AM</u>	<u>11/18</u>	<u>8PM</u> <u>11/20</u>
	<u>6AM</u>	<u>11/25</u>	<u>8PM</u> <u>11/27</u>
<u>8D:</u>	<u>7AM</u>	<u>9/30, 10/01,</u>	<u>7PM</u> <u>10/21</u>
		<u>10/02, 10/03,</u>	<u>10/29, 11/04</u>
		<u>10/08, 10/09,</u>	<u>11/13, 11/18</u>
		<u>10/10, 10/11,</u>	
	<u>7AM</u>	<u>10/14, 10/15</u>	<u>6PM</u> <u>10/21</u>
		<u>10/16, 10/17</u>	<u>5PM</u> <u>10/29, 11/04</u>
	<u>6AM</u>	<u>10/21</u>	<u>8PM</u> <u>11/13, 11/18</u>
	<u>6AM</u>	<u>10/28</u>	
	<u>6AM</u>	<u>11/04</u>	
	<u>6AM</u>	<u>11/12</u>	
	<u>6AM</u>	<u>11/18</u>	
	<u>6AM</u>	<u>11/25</u>	
<u>10:</u>	<u>7AM</u>	<u>10/21</u>	<u>8PM</u> <u>9/10</u>
	<u>7AM</u>	<u>10/29, 11/04</u>	<u>7PM</u> <u>9/16, 9/24</u>
		<u>11/13, 11/18</u>	<u>7PM</u> <u>9/30, 10/08</u>
			<u>6PM</u> <u>10/21</u>
			<u>5PM</u> <u>10/29, 11/04</u>
<u>11:</u>	<u>6AM</u>	<u>11/13, 11/18</u>	<u>7PM</u> <u>11/13, 11/18</u>
	<u>6AM</u>		<u>7PM</u> <u>11/13, 11/18</u>
	<u>7AM</u>		<u>6PM</u> <u>10/21</u>
	<u>7AM</u>		<u>5PM</u> <u>10/29, 11/04</u>
<u>12, 12B:</u>	<u>7AM</u>	<u>11/04, 11/05</u>	<u>8PM</u> <u>11/13, 11/18</u>
		<u>11/13, 11/14,</u>	<u>7PM</u> <u>11/13, 11/18</u>
		<u>11/18, 11/19</u>	<u>6PM</u> <u>10/21</u>
<u>12C:</u>	<u>7AM</u>	<u>11/18, 11/19</u>	<u>5PM</u> <u>11/18, 11/19</u>
		<u>11/26, 11/27</u>	<u>5PM</u> <u>11/26, 11/27</u>

It is unlawful to retain coho and chinook salmon taken with purse seine gear in areas 8, 12, 12B and 12C. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 95-75, filed 6/16/95, effective 7/17/95)

WAC 220-47-401 Reef net open periods. During 1994, it is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon

Management and Catch Reporting Area, during the periods provided for hereinafter in each respective area:

AREA	TIME	DATE(S)
7, 7A	7AM - 7PM	Daily ((10/01 - 10/24)) 9/29 - 11/23

It is unlawful to retain coho salmon taken with reef net gear. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 95-75, filed 6/16/95, effective 7/17/95)

WAC 220-47-411 Gill net—Open periods. During ((1994)) 1996, it is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

(AREA)	TIME	DATE(S)
7, 7A:	5PM - 8AM	NIGHTLY 10/23, 10/24
	4PM - 8AM	NIGHTLY 10/30, 10/31,
		11/1, 11/6, 11/7,
		11/8, 11/9, 11/10
7B:	7PM - 8AM	NIGHTLY 8/7, 8/8, 8/14,
		8/15, 8/16, 8/21,
		8/22, 8/28
	6AM - 9/10 through	4PM - 10/28
	6AM - 10/30 through	4PM - 11/3
	6AM - 11/5 through	4PM - 11/18
	6AM - 11/20 through	4PM - 11/22
	6AM - 11/27 through	4PM - 11/29
8:	5AM - 9PM	8/28 - 8/30
	4PM - 8AM	NIGHTLY 11/6, 11/13,
		11/14, 11/20,
		11/21, 11/22
8A, 8D:	5PM - 8AM	NIGHTLY 10/23, 10/24
	4PM - 8AM	NIGHTLY 10/30, 10/31,
		11/1, 11/6, 11/7,
		11/8, 11/13,
		11/14, 11/15,
		11/20, 11/21,
		11/22
9A:	6AM - 9/18 through	4PM - 9/22
	6AM - 9/25 through	4PM - 9/29
	6AM - 10/2 through	4PM - 10/6
	6AM - 10/9 through	4PM - 10/13
	6AM - 10/16 through	4PM - 10/20
	6AM - 10/23 through	4PM - 10/27
	6AM - 10/30 through	4PM - 11/3
10, 11:	5PM - 10/23	8AM - 10/24
	4PM - 8AM	NIGHTLY 10/30, 11/6,
		11/07, 11/13
12, 12B:	4PM - 8AM	NIGHTLY 10/30, 11/6, 11/7,
		11/13, 11/14,
		11/15))
<u>AREA</u>	<u>TIME</u>	<u>DATE(S)</u>
<u>6D:</u>	<u>7AM - 7PM</u>	<u>DAILY 10/1 - 10/4</u>
		<u>10/7 - 10/11</u>
		<u>10/14 - 10/18</u>
		<u>10/21 - 10/25</u>
<u>7, 7A:</u>	<u>6AM</u> <u>10/28</u>	<u>8PM</u> <u>10/29</u>
	<u>6AM</u> <u>11/4</u>	<u>8PM</u> <u>11/6</u>
	<u>6AM</u> <u>11/12</u>	<u>8PM</u> <u>11/14</u>

PROPOSED

	<u>6AM</u> <u>11/17</u>	-	<u>8PM</u> <u>11/23</u>
<u>7B:</u>	<u>7PM - 8AM</u>		<u>NIGHTLY 8/19, 8/26, 9/3</u>
	<u>6AM</u> <u>9/9</u>	-	<u>4PM</u> <u>9/11</u>
	<u>6AM</u> <u>9/15</u>	-	<u>4PM</u> <u>11/9</u>
	<u>6AM</u> <u>11/11</u>	-	<u>4PM</u> <u>11/15</u>
	<u>6AM</u> <u>11/18</u>	-	<u>4PM</u> <u>11/22</u>
	<u>6AM</u> <u>11/25</u>	-	<u>4PM</u> <u>11/29</u>
	<u>6AM</u> <u>12/2</u>	-	<u>4PM</u> <u>12/6</u>
	<u>6AM</u> <u>12/9</u>	-	<u>4PM</u> <u>12/13</u>
<u>7C:</u>	<u>7PM - 8AM</u>		<u>NIGHTLY 8/19, 8/26, 9/3</u>
<u>8:</u>	<u>4PM</u> <u>11/12</u>	-	<u>8AM</u> <u>11/13</u>
	<u>6AM</u> <u>11/18</u>	-	<u>8PM</u> <u>11/19</u>
	<u>6AM</u> <u>11/25</u>	-	<u>8PM</u> <u>11/27</u>
<u>8A:</u>	<u>6AM</u> <u>10/21</u>	-	<u>8PM</u> <u>10/22</u>
	<u>6AM</u> <u>10/28</u>	-	<u>8PM</u> <u>10/29</u>
	<u>6AM</u> <u>11/4</u>	-	<u>8PM</u> <u>11/6</u>
	<u>6AM</u> <u>11/12</u>	-	<u>8PM</u> <u>11/14</u>
	<u>6AM</u> <u>11/18</u>	-	<u>8PM</u> <u>11/20</u>
	<u>6AM</u> <u>11/25</u>	-	<u>8PM</u> <u>11/27</u>
<u>8D:</u>	<u>6PM - 8AM</u>		<u>NIGHTLY 9/30, 10/1, 10/2, 10/3,</u>
			<u>10/7, 10/8, 10/9, 10/10</u>
	<u>5PM - 8AM</u>		<u>NIGHTLY 10/14, 10/15, 10/16,</u>
			<u>10/17</u>
	<u>6AM</u> <u>10/21</u>	-	<u>8PM</u> <u>10/22</u>
	<u>6AM</u> <u>10/28</u>	-	<u>8PM</u> <u>10/29</u>
	<u>6AM</u> <u>11/4</u>	-	<u>8PM</u> <u>11/6</u>
	<u>6AM</u> <u>11/12</u>	-	<u>8PM</u> <u>11/14</u>
	<u>6AM</u> <u>11/18</u>	-	<u>8PM</u> <u>11/20</u>
	<u>6AM</u> <u>11/25</u>	-	<u>8PM</u> <u>11/27</u>
<u>9A:</u>	<u>6AM</u> <u>9/16</u>	-	<u>4PM</u> <u>9/20</u>
	<u>6AM</u> <u>9/23</u>	-	<u>4PM</u> <u>9/27</u>
	<u>6AM</u> <u>9/30</u>	-	<u>4PM</u> <u>10/4</u>
	<u>6AM</u> <u>10/7</u>	-	<u>4PM</u> <u>10/11</u>
	<u>6AM</u> <u>10/14</u>	-	<u>4PM</u> <u>10/18</u>
	<u>6AM</u> <u>10/21</u>	-	<u>4PM</u> <u>10/25</u>
	<u>6AM</u> <u>10/28</u>	-	<u>4PM</u> <u>11/1</u>
<u>10:</u>	<u>5PM</u> <u>10/21</u>	-	<u>8AM</u> <u>10/22</u>
	<u>4PM - 8AM</u>		<u>NIGHTLY 10/28, 11/4, 11/12,</u>
			<u>11/18</u>
<u>11:</u>	<u>6PM - 8AM</u>		<u>NIGHTLY 9/9, 9/16, 9/23, 9/30,</u>
			<u>10/7</u>
	<u>5PM</u> <u>10/21</u>	-	<u>8AM</u> <u>10/22</u>
	<u>4PM - 8AM</u>		<u>NIGHTLY 10/28, 11/4, 11/12,</u>
			<u>11/18</u>
<u>12, 12B:</u>	<u>4PM - 8AM</u>		<u>NIGHTLY 11/4, 11/15, 11/12,</u>
			<u>11/13, 11/18, 11/19</u>
<u>12C:</u>	<u>4PM - 8AM</u>		<u>NIGHTLY 11/18, 11/19, 11/25,</u>
			<u>11/26</u>

Note: Area 6D skiff gill net only. It is unlawful to retain chinook salmon taken in Area 6D.

All other saltwater and freshwater areas - closed.
Nightly openings refer to the start date.

NEW SECTION

WAC 220-47-427 Puget Sound—Lawful gear—Beach seine. (1) Lawful beach seine salmon nets in Puget Sound shall not exceed 600 feet in length and 100 meshes in depth, nor contain meshes of a size less than 3 inches or greater than 4 inches.

(2) It shall be unlawful to take or fish for salmon with beach seine gear in Puget Sound which contains mesh webbing constructed of a twine size smaller than 210/30d nylon, 12 thread cotton or the equivalent diameter in any other material.

(3) An expanding commercial fisheries permit issued under the provisions of chapter 220-88 WAC is required to operate the gear provided for in this section.

NEW SECTION

WAC 220-47-428 Beach seine—Open periods. During 1996, it is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

AREA	TIME		DATE(S)
7, 7A	7AM - 7PM	Daily	9/23, 9/24, 9/25, 9/30, 10/1, 10/2, 10/7, 10/8, 10/9

PROPOSED



WSR 96-09-001
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 96-06—Filed April 3, 1996, 3:53 p.m.]

Date of Adoption: April 3, 1996.

Purpose: Moves [the] dates budgets must be completed by school districts and submitted to ESDs and general public from July 15 (2nd class districts) and July 20 (1st class districts) to July 10 for 1st and 2nd class districts.

Citation of Existing Rules Affected by this Order: Amending WAC 392-123-078 and 392-123-079.

Statutory Authority for Adoption: RCW 28A.505.040.

Adopted under notice filed as WSR 96-05-031 on February 14, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 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.

April 3, 1996

Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 92-02, filed 1/7/92, effective 2/7/92)

WAC 392-123-078 Review of first-class school district budgets and budget extensions. Annual budgets of first-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. ~~((First class school districts shall submit a copy of their budgets to their educational service district for review at least fourteen days prior to budget adoption but not later than July 20.))~~

The educational service district shall notify each of its first-class school districts of any problems noted during the review prior to adoption of the budget by the school district.

Budgets and budget extensions adopted by first-class school districts shall be reviewed by the educational service district prior to filing these documents with the superintendent of public instruction.

Said reviews shall include but not be limited to completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget or budget extension is in compliance with this chapter, state statutory law and budget instructions issued by the superintendent of public instruction.

The educational service district shall notify the district of all problems noted in the review and the due date for correction of the problems. Should the school district fail to meet the due date for correction, the educational service district shall notify the superintendent of public instruction. The superintendent of public instruction shall proceed in the manner prescribed in WAC 392-123-080 through 392-123-105.

AMENDATORY SECTION (Amending Order 92-02, filed 1/7/92, effective 2/7/92)

WAC 392-123-079 Review of second-class district budgets and budget extensions. Annual budgets of second-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. ~~((Second class school districts shall submit a copy of their budget to their educational service district for review at least fourteen days prior to adoption, but not later than July 15.))~~

Educational service districts shall notify each of its second-class school districts of any problems noted during the review prior to adoption of the budget by the board of directors.

Review of second-class school district adopted budgets shall be performed by the educational service districts. Said reviews shall include, but not be limited to, completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction.

The educational service district will notify the district of all problems noted during the review. The educational service district shall attempt to have the problems corrected prior to submission of the budget to the superintendent of public instruction.

The superintendent of public instruction shall conduct meetings with representatives of the educational service district and/or school district as deemed necessary to correct problems and to fix and approve the amount of appropriation from each fund of the budget as prescribed in RCW 28A.505.070 and WAC 392-123-054.

Review of budget extensions shall consist of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures, and determination of whether or not the budget extension is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction. Approval of budget extensions shall be in accordance with WAC 392-123-072.

WSR 96-09-015
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION

[Filed April 8, 1996, 8:32 a.m.]

Date of Adoption: March 26, 1996.

Purpose: Implement contributions limits imposed by Initiative 134 in a comprehensive manner and clarify what

types of expenditures constitute contributions that are subject to limit.

Citation of Existing Rules Affected by this Order:
Amending WAC 390-05-190 and 390-05-210.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 96-05-072 on February 21, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 2, 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.

April 2, 1996

Melissa Warheit
Executive Director

NEW SECTION

WAC 390-05-245 Officer of a candidate's committee or political committee — Definition. For purposes of chapter 42.17 RCW and chapter 390 WAC, "officer of a candidate's authorized committee," or "officer of a candidate's committee" or "officer of a political committee" includes the following persons: the treasurer, any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee.

AMENDATORY SECTION (Amending WSR 93-22-022 [93-22-002], filed 10/23/93 [10/20/93])

WAC 390-05-190 Agent—Definition. "Agent", as that term is used in chapter 42.17 RCW and chapter 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

- (1) Is authorized by another to act on his or her behalf; or
- (2) Represents and acts for another with the authority or consent of the person represented; or
- (3) Acts for or in place of another by authority from him or her.

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

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in RCW 42.17.020(~~((10) and RCW 42.17.630(5))~~) shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and, pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) (~~The following activities are not considered to be~~) ~~contributions or independent campaign expenditures reportable under RCW 42.17.090 or 42.17.100~~);

(a) ~~News, feature, or editorial comment in a broadcast media program or in a regularly scheduled issue of a printed periodical to communicate ratings, evaluations, endorsements, or recommendations for or against a candidate or ballot proposition; PROVIDED, that the medium is controlled by a person whose primary business is broadcasting or publishing and this person is not a candidate or political committee;~~

(b) ~~Internal publications or other communications containing political comment of (i) a corporation or similar enterprise for its officers, management staff, and stockholders, (ii) of a union, association, or other membership organization for its members, or (iii) of a political party organization or political committee for its contributors;~~

(c) ~~Messages in the form of reader boards, banners, yard, or window signs displayed on a person's own property or property occupied by a person; PROVIDED, That any facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution and shall count towards the contribution limit of the person providing the facility.~~)

Duplicating Political Advertising. The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee is a contribution to the candidate or political committee.

(3) **Consulting with a State, Local or Judicial Candidate.** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:

(a) any arrangement, coordination or direction by the candidate, the candidate's authorized committee or agent is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person supporting

that candidate or opposing one or more of that candidate's opponents; or

(b) an expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made; or

(c) an expenditure is made by, through or in consultation with any person who, during the current election cycle, (i) is or has been authorized to raise or spend over \$500 per election on behalf of the candidate, or (ii) is or has been an officer of the candidate's authorized committee; or

(d) the expenditure is made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent.

(4) *Consulting with a Caucus Political Committee.* An expenditure, that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent when:

(a) any arrangement, coordination or direction by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person supporting that caucus political committee or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) an expenditure is made based on information about the caucus political committee's plans, projects or needs provided to the expending person by the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus with a view toward having an expenditure made; or

(c) an expenditure is made by, through or in consultation with any person who, during the current election cycle, (i) is or has been authorized to raise or spend over \$500 per year on behalf of the caucus political committee, or (ii) is or has been an officer of another political committee financed, controlled or operated by the caucus; or

d) the expenditure is made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent or another political committee financed, controlled or operated by the caucus.

(5) *Consulting with a Bona Fide Political Party.* An expenditure, that does not qualify as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent is a contribution to such bona fide political party. An expenditure is presumed to be made in coopera-

tion, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party when:

(a) any arrangement, coordination or direction by the bona fide political party, its agent or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person supporting that bona fide political party or one or more of the candidates supported by it or opposing one or more of those candidates' opponents; or

(b) an expenditure is made based on information about the bona fide political party's plans, projects or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; or

(c) an expenditure is made by, through or in consultation with any person who, during the current election cycle, (i) is or has been authorized to raise or spend over \$2,500 per year in non-exempt funds on behalf of the bona fide political party, or (ii) is or has been an officer of a political committee financed, controlled or operated by the bona fide political party; or

(d) the expenditure is made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent or a political committee financed, controlled or operated by the bona fide political party.

(6) *Consulting with Other Political Committees.* An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a political committee when:

(a) any arrangement, coordination or direction by the political committee, its agent or another political committee financed, controlled or operated by the committee is given to the expending person prior to the publication, distribution, display or broadcast of political advertising or prior to an expenditure being made by that person supporting that political committee; or

(b) an expenditure is made based on information about the political committee's plans, projects or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; or

(c) an expenditure is made by, through or in consultation with any person who, during the current election cycle, (i) is or has been authorized to raise or spend over \$5,000 on behalf of the political committee or another political committee financed, controlled or operated by the committee, or (ii) is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) an expenditure is made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent or another political committee financed, controlled or operated by the committee.

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.

WSR 96-09-016
PERMANENT RULES
PUBLIC DISCLOSURE COMMISSION

[Filed April 8, 1996, 8:35 a.m.]

Date of Adoption: March 26, 1996.

Purpose: Clarify definition and application of terms "independent expenditure" and "aggregate" in order to implement chapter 42.17 RCW as amended by Initiative 134.

Citation of Existing Rules Affected by this Order: Repealing WAC 390-17-050 and 390-17-052; and amending WAC 390-16-038.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 96-05-073 on February 21, 1996.

Changes Other than Editing from Proposed to Adopted Version: In WAC 390-16-313 (1)(c), substituted reference to WAC 390-05-400 in lieu of using \$500 amount.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 1, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 2, 1996

Melissa Warheit
Executive Director

NEW SECTION

WAC 390-16-313 Independent expenditure—
Definition and application. (1) "Independent expenditure," as that term is used in chapter 42.17 RCW, except RCW 42.17.100, means an "expenditure" as defined in RCW 42.17.020 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for public office, except federal elective office or precinct committee officer, by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting

the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for any political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value equal to or greater than the amount specified for independent expenditures in WAC 390-05-400. A series of expenditures, each of which is under the applicable amount in WAC 390-05-400, constitutes one independent expenditure if their cumulative value is equal to or greater than the amount specified in WAC 390-05-400.

(2) **Political Parties.** An expenditure in support of a candidate or in opposition to one or more of that candidate's opponents is a contribution to that candidate and is subject to the applicable limits found in RCW 42.17.105(8) and RCW 42.17.640 if it is made by, through or in cooperation, consultation, concert or collaboration with one or more of the following persons or their agents: a bona fide political party, a national committee or federal committee of a political party organization, or a political committee financed, controlled or operated by one or more officers, employees or agents of a bona fide political party.

(3) **Caucus and Legislator Operated Committees.** An expenditure in support of a state legislative office candidate or in opposition to one or more of that candidate's opponents is a contribution to that candidate and is subject to the applicable limits found in RCW 42.17.105(8) and RCW 42.17.640 if it is made by, through or in cooperation, consultation, concert or collaboration with one or more of the following persons or their agent: a caucus political committee or another political committee financed, controlled or operated by one or more state legislators, one or more employees or agents of a caucus political committee, or a combination thereof.

(4) **Exempt Activities.** The following activities are not considered independent expenditures for purposes of RCW 42.17.100, .180, .510 or .550:

(a) Ordinary home hospitality;

(b) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(c) An internal political communication primarily limited to (i) the members of or contributors to a political party organization or political committee, (ii) the officers, management staff or stockholders of a corporation or similar enterprise, or (iii) the members of a labor organization or other membership organization;

(d) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or the property occupied by a person. However, a facility used for such political advertising for which a rental charge

is normally made shall be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the person providing the facility; or

(e) The rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid by the worker.

NEW SECTION

WAC 390-16-314 Independent expenditure—Disclosure. For purposes of the disclosure requirement in RCW 42.17.550, the county of residence for an out-of-state person making an independent expenditure in support of or opposition to a ballot proposition shall be either:

- (1) Thurston county if the independent expenditure is for a statewide ballot proposition; or
- (2) For local ballot propositions, the county or counties where the ballot proposition will appear on the election ballot.

AMENDATORY SECTION (Amending WSR 93-22-002, filed 10/20/93)

WAC 390-16-038 Definition—Aggregate. The term "aggregate" means, for purposes of:

- (1) A candidate for state office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;
- (2) A candidate for local or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;
- (3) A bona fide political party or ((legislative)) caucus political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;
- (4) A political committee, the total amount of contributions received by the committee from the date of organization;

(5) A continuing political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(6) A contributor, the total amount of all contributions received from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) A person making independent ((campaign)) expenditures with respect to a candidate~~((the total amount of expenditures made to a person or vendor during the period for which the report is submitted))~~ and the reporting and disclosure provisions of RCW 42.17.100, .180, .510 and .550, an independent expenditure made by a person in support of a candidate shall be added to any independent expenditure by the same person in opposition to one or more of the candidate's opponents; and, for purposes of a person making independent expenditures with respect to a ballot proposition, an independent expenditure made by a person in support of a ballot proposition shall be added to any independent expenditure by the same person in opposition to the

ballot proposition or in support of an alternative ballot proposition;

(8) The special reports required by RCW 42.17.105 and 42.17.175, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) An employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition during the preceding calendar year;

(10) The sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in RCW 42.17.200(1);

(11) RCW 42.17.245, the total amount of all time and demand deposits in each financial institution on December 31;

(12) RCW 42.17.395(4), the total amount of monetary penalty that the commission may impose for multiple violations of the act

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 rules are hereby repealed:

WAC 390-17-050	Independent expenditure— Definition
WAC 390-17-052	Independent expenditure— Disclosure

WSR 96-09-017

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed April 8, 1996, 8:38 a.m.]

Date of Adoption: March 26, 1996.

Purpose: Amend WAC 390-24-010 Forms for statement of financial affairs and 390-24-020 Forms for amending statement of financial affairs.

Citation of Existing Rules Affected by this Order: Amending WAC 390-24-010 and 390-24-020.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 96-05-074 on February 21, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, 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.
April 2, 1996
Melissa Warheit
Executive Director

AMENDATORY SECTION (Amending WSR 91-20-153 [91-24-011], filed 10/2/91 [11/22/91])

WAC 390-24-010 Forms for statement of financial affairs. The official form for statements of financial affairs as required by RCW 42.17.240 is designated "F-1," revised ((10/91)) 11/95. Copies of this form are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington, 98504. Any attachments must be on 8-1/2" x 11" white paper.

PERMANENT



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM F-1 (10/91)

PERSONAL FINANCIAL AFFAIRS STATEMENT

POST RECEIVED

PDC OFFICE USE

Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials—by April 15.
Candidates and others—within two weeks of becoming a candidate or being newly appointed to a position.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION.

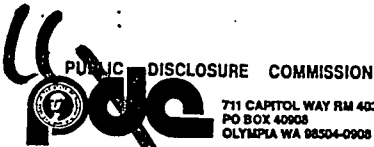
Table with columns: DOLLAR CODE, AMOUNT. Rows: A (\$10-\$199), B (\$200-\$499), C (\$500-\$999), D (\$1,000-\$2,499), E (\$2,500-\$4,999)

Form fields: Last Name, First, Middle Initial, Names of Spouse and Dependents, Mailing Address, City, County, Zip + 4, Filing Status (checkboxes), Office-Held or Sought, Office title, County, city, district or agency of the office, name and number, Position number, Term begins, ends.

Table 1: INCOME. Columns: Name and Address of Employer or Source of Compensation, Occupation or How Compensation Was Earned, Amount (Use Code). Includes checkbox: Check here [] if continued on attached sheet.

Table 2: REAL ESTATE. Columns: Property Sold or Interest Divested, Assessed Value (Use Code), Name and Address of Purchaser, Nature and Amount (Use Code) of Payment or Consideration Received, Property Purchased or Interest Acquired, Creditor's Name/Address, Payment Terms, Security Given, Mortgage Amount (Use Code) Original/Current, All Other Property Entirely or Partially Owned. Includes checkbox: Check here [] if continued on attached sheet.

PERMANENT



711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908

PDC FORM
F-1
SUPPLEMENT
(10/91)

SUPPLEMENT PAGE
PERSONAL FINANCIAL AFFAIRS STATEMENT

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

LAST NAME	FIRST	MIDDLE INITIAL	DATE
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- A OFFICES HELD AND BUSINESS INTERESTS:** For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner—provide the following information:
- Legal Name: Report name used on legal documents establishing the entity.
 - Trade or Operating Name: Report name used for business purposes if different from the legal name.
 - Position or Percent of Ownership: The office, title and/or percent of ownership held.
 - Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
 - Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
 - Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$5,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
 - Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1 Reporting for: Self _____ Spouse _____ Dependent _____
 LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP
 TRADE OR OPERATING NAME:
 ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments Amount (actual dollars)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$5,000:
 Customer name: Purpose of payment (amount not required)

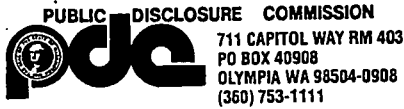
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$10,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

PDC FORM F-1 SUPPLEMENT (REVISED 10/91)-1

CONTINUE PARTS B AND C ON REVERSE

PERMANENT



PDC FORM F-1 (11/95)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M O A R S T K PDC OFFICE USE
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Refer to instruction manual for detailed assistance and examples. This form includes changes made by Chapter 397, 1995 Session Laws.

Deadlines: Incumbent elected and appointed officials—by April 15.
Candidates and others—within two weeks of becoming a candidate or being newly appointed to a position.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION.

DOLLAR CODE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

R
E
C
E
I
V
E
D

Last Name	First	Middle Initial	Names of Spouse and Dependents	Political Party If partisan office or pertinent to appointment
Mailing Address				
City	County	Zip + 4		
Filing Status (Check only one box.) <input type="checkbox"/> An elected official or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office			Office Held or Sought	
			Office title _____	
			County, city, district or agency of the office, name and number: _____	
			Position number _____	
			Term begins: _____ ends: _____	

1 INCOME List each employer, or other source of income (Pension, social security, legal judgment) from which you or a family member received \$1,000 or more during the period. (Report interest and dividends in Item 3 on reverse)

Show: Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)

Check here if continued on attached sheet

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$5,000 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received		
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount—(Use Code) Original Current
All Other Property Entirely or Partially Owned					

Check here if continued on attached sheet

CONTINUE ON REVERSE

PERMANENT

3 ASSETS / INVESTMENTS—INTEREST / DIVIDENDS List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.

A. Name and address of each bank or financial institution in which you or a family member had an account over \$10,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount: (Use Code)
B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$10,000 during the period.			
C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			

Check here if continued on attached sheet

4 CREDITORS List each creditor you or a family member owed \$1,000 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.

Creditor's Name and Address	Terms of Payment	Security Given	AMOUNT (USE CODE)	
			Original	Present

Check here if continued on attached sheet

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required. Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

- A. Were you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity at any time during the reporting period? _____ If yes, complete Supplement, Part A.
- B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? _____ If yes, complete Supplement, Part A.
- C. Did you, your spouse or dependents own a business at any time during the reporting period? _____ If yes, complete Supplement, Part A.
- D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? _____ If yes, complete Supplement, Part B.
- E. Only for Persons Filing Annual Report. Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? _____ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? _____ If yes to either or both questions, complete Supplement, Part C.

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.

I hold a state elected office or am an executive state officer. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.

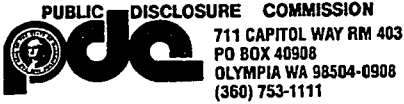
I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____

Daytime Telephone: () _____

PERMANENT



PDC FORM F-1 SUPPLEMENT (11/95)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT
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PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

LAST NAME	FIRST	MIDDLE INITIAL	DATE
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A OFFICES HELD, BUSINESS INTERESTS: For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner—provide the following information:

- Legal Name: Report name used on legal documents establishing the entity.
- Trade or Operating Name: Report name used for business purposes if different from the legal name.
- Position or Percent of Ownership: The office, title and/or percent of ownership held.
- Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
- Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
- Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$5,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
- Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1 Reporting for: Self _____ Spouse _____ Dependent _____
 LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP
 TRADE OR OPERATING NAME:
 ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments Amount (actual dollars)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$5,000:
 Customer name: Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$10,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

PDC FORM F-1 SUPPLEMENT (REVISED 11/95)—1

CONTINUE PARTS B AND C ON REVERSE

PERMANENT

ENTITY NO. 2

LEGAL NAME:

TRADE OR OPERATING NAME:

ADDRESS:

Reporting for: Self _____ Spouse _____ Dependent _____

POSITION OR PERCENT OF OWNERSHIP

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments

Amount (actual dollars)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$5,000:

Customer name:

Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$10,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

B LOBBYING List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered

Description of Legislation, Rules, Etc.

Compensation (Use Code)

Check here if continued on attached sheet

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received

Donor's Name, City and State

Brief Description

Actual Dollar Amount

Value (Use Code)

Check here if continued on attached sheet

PDC FORM F-1 SUPPLEMENT (REVISED 11/95)

PERMANENT

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 WSR 91-20-153 [91-24-011], filed 10/2/91 [11/22/91])

WAC 390-24-020 Forms for amending statement of financial affairs. (1) The official form for amending statements of financial affairs as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is designated Form "F-1A," revised (~~10/91~~) 11/95.

(2) No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new statement of financial affairs (Form F-1) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of Form F-1A are available at the commission office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments must be on 8-1/2" x 11" white paper.

PUBLIC DISCLOSURE COMMISSION



711 CAPITOL WAY RM 403 FJ42
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM
F-1A
(10/91)

**PERSONAL FINANCIAL
AFFAIRS STATEMENT
Short Form**

P M
O A
R S
T R
K
PDC OFFICE USE

The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports.

Deadlines: Incumbent elected and appointed officials—by April 15. Candidates and others—within two weeks of becoming a candidate or being newly appointed to a position.

DOLLAR RANGE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

RECEIVED

Political Party
If partisan office or
pertinent to appointment

Last Name _____ First _____ Middle Initial _____

Mailing Address _____

City _____ County _____ Zip + 4 _____

Names of Spouse and Dependents _____

Filing Status (Check only one box.)

An elected or state appointed official filing annual report

Final report as an elected official. Term expired _____

Candidate running in an election: month _____ year _____

Newly appointed to an elective office

Newly appointed to a state appointive office

Office Held or Sought _____

Office title _____

County, city, district or agency of the office, name and number: _____

Position number _____

Term begins: _____ ends: _____

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

NO CHANGE REPORT. I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period.

MINOR CHANGE REPORT. I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form Item numbers when describing changes. Provide all information required on F-1 report.

GIFTS: (This information required of incumbent elected and appointed officials only.) List the date, source, brief description and value of each gift of entertainment, travel, goods, services, economic advantage, etc. valued at more than \$50 (entertainment receptions where pro-rata share exceeds \$100). Exclude gifts that, without doubt, were clearly not intended to gain or maintain influence with respect to your governmental entity (e.g., most intra-family and private sector business related gifts). See Gift section of F-1 manual for details.

Date Received	Donor's Name, City and State	Brief Description	Approx. Dollar Value

Check here If continued on attached sheet.

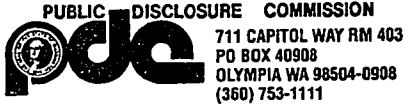
CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____

Daytime Telephone: () _____

Report Not Acceptable Without Filer's Signature

PERMANENT



711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

PDC FORM
F-1A
(11/95)

**PERSONAL FINANCIAL
AFFAIRS STATEMENT
Short Form**

P
M
A
R
K

R
E
C
E
I
V
E
D

PDC OFFICE USE

The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed.
A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports.
Deadlines: Incumbent elected and appointed officials—by April 15.
Candidates and others—within two weeks of becoming a candidate or being newly appointed to a position.

DOLLAR CODE	AMOUNT
A	\$1 to \$1,999
B	\$2,000 to \$9,999
C	\$10,000 to \$19,999
D	\$20,000 to \$49,999
E	\$50,000 or more

Last Name	First	Middle Initial	Names of Spouse and Dependents	Political Party If partisan office or pertinent to appointment
Mailing Address				
City	County	Zip + 4		

Filing Status (Check only one box.) <input type="checkbox"/> An elected official or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office	Office Held or Sought
	Office title _____
	County, city, district or agency of the office, name and number: _____
	Position number _____
	Term begins: _____ ends: _____

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

NO CHANGE REPORT. I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period.

MINOR CHANGE REPORT. I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form item numbers when describing changes. Provide all information required on F-1 report.

Check here if continued on attached sheet

FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof:
1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)

Check here if continued on attached sheet

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.

I hold a state elected office or am an executive state officer. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.

I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____

Daytime Telephone: () _____

PERMANENT

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

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

WSR 96-09-027
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed April 9, 1996, 3:45 p.m.]

Date of Adoption: April 9, 1996.

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.

Citation of Existing Rules Affected by this Order:
Amending WAC 180-51-050.

Statutory Authority for Adoption: RCW 28A.230.090.

Other Authority: RCW 28A.305.130.

Adopted under notice filed as WSR 96-04-071 on February 7, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 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.

April 9, 1996
Larry Davis
Executive Director

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 96-09-030
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 10, 1996, 11:20 a.m., effective June 1, 1996]

Date of Adoption: April 10, 1996.

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

- Cranes and derricks with variable angle booms must be equipped with a boom angle indicator which is visible to the operator.
- Cranes with telescoping booms must be equipped with a device to indicate the load radius to the operator at all times.
- A limit switch or a hoisting action deactivation system must be used to prevent two-blocking of the load line.

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

- Change "and" to "or" in WAC 296-24-084 Occupational head protection. The corrected sentence reads, "...where there is a potential for injury to the head from falling or flying objects."
- Add a footnote after Table A-6, Rubber insulating equipment test intervals, in WAC 296-24-092 Electrical protective equipment, to require insulating equipment not be placed into service unless it has been electrically tested within the previous twelve months.

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

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

- Correct a WAC reference in WAC 296-62-07306 (2)(c) from WAC 296-62-07304 (2)(1) to WAC 296-62-07304(12).
- Require a full face supplied air respirator for five specifically identified carcinogens.
- Require a half-face filter type respirator for nine specifically identified carcinogens.
- Add a respiratory protective equipment reference to chapter 296-62 WAC.

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

- Delete expired implementation dates listed in Table 1 and amend items referencing these implementation dates.
- Add future implementation dates to Table 1.
- Delete a subsection relating to bypass of interim level.
- Amend WAC 296-62-07521(12) to delete obsolete information related to implementation phases of the standard and incorrect PEL limits.
- Amend appendix text to be consistent with the standard text. (The standard currently "requires" - and the appendix currently "strongly recommends" - ZPP blood tests for employees who have been overexposed and are taking monthly follow-up blood tests.)
- Update WAC references to reflect amended section numbering.

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

- Require clean change rooms and separate storage for street clothes, protective clothing, and equipment.
- Require employers to have all employees in regulated areas to shower at the end of each workshift.
- Require employees [employers] to have employees immediately wash off any skin contamination (with DBCP).
- Require employers with employees handling DBCP to provide a readily available lunchroom which meets specified environmental requirements.
- Require potentially contaminated clothing be removed and hands and face be washed prior to eating after working in a DBCP regulated work area.
- Prohibit specified activities in regulated work areas, such as eating, drinking, and smoking.
- Require annual medical exams for all employees in regulated work areas as well as a supplemental exam when exposure actually occurs.

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

- Correct errors in the solution mix formula numbers used for saccharin fit testing of cadmium, lead, asbestos, benzene, formaldehyde, and methylene dianiline.
- Move a subsection for better organization of information.
- Correct a typographical error in a title.
- Renumber subsections as a result of the adopted federal-initiated amendments.

Citation of Existing Rules Affected by this Order: Amending chapter 296-24 WAC, General safety and health standards, WAC 296-24-084 Occupational head protection, 296-24-092 Electrical protective equipment, 296-24-23533 Crane and derrick suspended personnel (work) platform, chapter 296-62 WAC, General occupational health standards, WAC 296-62-07306 Requirements for areas containing carcinogens listed in WAC 296-62-07302, 296-62-07342 1,2-Dibromo-3-Chloropropane, 296-62-07445 Appendix C—Qualitative and quantitative fit testing procedures—(fit test protocols), 296-62-07521 Lead, 296-62-07533 Appendix E—Qualitative and quantitative fit testing procedures, 296-62-

07550 Appendix E—Qualitative and quantitative fit testing procedures, 296-62-07668 Appendix E-1-b—Saccharin solution aerosol protocol, and 296-62-07739 Appendix C—Qualitative and quantitative fit testing procedures.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Adopted under notice filed as WSR 96-03-024 on January 8, 1996.

Changes Other than Editing from Proposed to Adopted Version: No oral or written public comments were received on the proposal, therefore, the department is adopting the standards as proposed with no changes between the proposed and adopted version.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 6, 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 6, 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: June 1, 1996.

April 10, 1996

Mark O. Brown

Director

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

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

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

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

(2) Criteria for protective helmets.

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

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

(3) Persons working in the shops around machinery or in locations which present a hair catching or fire hazard shall wear caps or other type of head covering which completely

covers the hair. Caps with metal buttons or metal visors shall not be worn around electrical hazards.

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

- (a) When the length would exceed the circumference of exposed revolving shafts or tools in fixed machines by 200 percent.
- (b) When the length would exceed the radius of pressure rolls with exposed in-running nip points.
- (c) When the employee is exposed to an ignition source and the employee may, with hair aflame, run into an area containing class -1 flammable liquids or combustible atmospheres.
- (d) When exposures require personal protective devices, such as mask-type respirators or ear-cup-type hearing protection devices, and hair, either facial or head, would interfere with a proper seal.

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

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

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

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

WAC 296-24-092 Electrical protective equipment.

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

(a) Manufacture and marking.

(i) Blankets, gloves, and sleeves shall be produced by a seamless process.

(ii) Each item shall be clearly marked as follows:

- (A) Class 0 equipment shall be marked Class 0.
- (B) Class 1 equipment shall be marked Class 1.
- (C) Class 2 equipment shall be marked Class 2.
- (D) Class 3 equipment shall be marked Class 3.
- (E) Class 4 equipment shall be marked Class 4.

(F) Nonozone-resistant equipment other than matting shall be marked Type I.

(G) Ozone-resistant equipment other than matting shall be marked Type II.

(H) Other relevant markings, such as the manufacturer's identification and the size of the equipment, may also be provided.

(iii) Markings shall be nonconducting and shall be applied in such a manner as not to impair the insulating qualities of the equipment.

(iv) Markings on gloves shall be confined to the cuff portion of the glove.

(b) Electrical requirements.

(i) Equipment shall be capable of withstanding the a-c proof-test voltage specified in Table A-2 or the d-c proof-test voltage specified in Table A-3.

(A) The proof-test shall reliably indicate that the equipment can withstand the voltage involved.

(B) The test voltage shall be applied continuously for three minutes for equipment other than matting and shall be applied continuously for one minute for matting.

(C) Gloves shall also be capable of withstanding the a-c proof-test voltage specified in Table A-2 after a sixteen-hour

water soak. (See the note following (c)(ii)(B) of this subsection.)

(ii) When the a-c proof-test is used on gloves, the 60 hertz proof-test current may not exceed the values specified in Table A-2 at any time during the test period.

(A) If the a-c proof-test is made at a frequency other than 60 hertz, the permissible proof-test current shall be computed from the direct ratio of the frequencies.

(B) For the test, gloves (right side out) shall be filled with tap water and immersed in water to a depth that is in accordance with Table A-4. Water shall be added to or removed from the glove, as necessary, so that the water level is the same inside and outside the glove.

(C) After the sixteen-hour water soak specified in (b)(i)(C) of this subsection, the 60-hertz proof-test current may exceed the values given in Table A-2 by not more than 2 milliamperes.

(iii) Equipment that has been subjected to a minimum breakdown voltage test may not be used for electrical protection. (See the note following (c)(ii)(B) of this subsection.)

(iv) Material used for Type II insulating equipment shall be capable of withstanding an ozone test, with no visible effects. The ozone test shall reliably indicate that the material will resist ozone exposure in actual use. Any visible signs of ozone deterioration of the material, such as checking, cracking, breaks, or pitting, is evidence of failure to meet the requirements for ozone-resistant material. (See the note following (c)(ii)(B) of this subsection.)

(c) Workmanship and finish.

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

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

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

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

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

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

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

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

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

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

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

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

(2) In-service care and use.

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

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

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

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

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

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

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

(C) An embedded foreign object;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASTM F 478-92, Specification for In-Service Care of Insulating Line Hose and Covers.

ASTM F 479-88a, Specification for In-Service Care of Insulating Blankets.

ASTM F 496-93b, Specification for In-Service Care of Insulating Gloves and Sleeves.

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

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

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

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

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

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

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

Table A-2. -A-C Proof-Test Requirements

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

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

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

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

Table A-4.-Glove Tests-Water Level^{1, 2}

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

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

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

PERMANENT

Table A-5.-Rubber Insulating Equipment Voltage Requirements

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

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

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

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

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

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

Table A-6.-Rubber Insulating Equipment Test Intervals

Type of equipment	When to test
Rubber insulating line hose	Upon indication that insulating value is suspect.
Rubber insulating covers	Upon indication that insulating value is suspect.
Rubber insulating blankets	Before first issue and every 12 months thereafter. ¹
Rubber insulating gloves	Before first issue and every 6 months thereafter. ¹
Rubber insulating sleeves	Before first issue and every 12 months thereafter. ¹

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

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

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

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

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

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

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

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

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

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

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

(4) Operational criteria.

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

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

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

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

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

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

PERMANENT

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

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

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

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

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

(5) Rigging.

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

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

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

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

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

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

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

(6) Personnel platforms - design criteria.

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

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

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

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

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

(7) Platform specifications.

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

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

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

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

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

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

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

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

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

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

(k) Rescue platform:

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

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

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

(m) Barrel-type platform:

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

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

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

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

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

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

(8) Personnel platform loading.

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

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

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

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

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

(9) Trial lift, inspection, and prooftesting.

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

(b) The trial lift shall be repeated prior to hoisting employees whenever the crane or derrick is moved and set up in a new location or returned to a previously used location. Additionally, the trial lift shall be repeated when the lift route is changed unless the operator determines that the route change is not significant (i.e., the route change would not affect the safety of hoisted employees).

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

(i) Hoist ropes shall be free of kinks;

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

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

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

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

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

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

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

(10) Work practices.

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

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

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

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

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

(f) Employees being hoisted shall remain in continuous sight of and in direct communication with the operator or signal person. In those situations where direct visual contact with the operator is not possible, and the use of a signal person would create a greater hazard for that person, direct communication alone such as by radio may be used.

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

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

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

(11) Traveling.

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

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

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

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

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

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

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

(12) Prelift meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 296-62-07342 1,2-Dibromo-3-chloropropane.

(1) Scope and application.

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

(b) This section does not apply to:

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

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

(2) Definitions applicable to this section:

(a) "Authorized person" - any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

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

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

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

(3) Permissible exposure limits.

(a) Inhalation.

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

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

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) Respirators.

(a) General. Where respiratory protection is required under this section, the employer shall select, provide and assure the proper use of respirators.

(b) Respirators shall be used in the following circumstances:

(i) During the period necessary to install or implement feasible engineering and work practice controls; or

(ii) During maintenance and repair activities in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(9) Respirator selection.

(a) Where respirators are required under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I of this section and shall assure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE I
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator. (ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood. (ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an auxiliary self-contained breathing apparatus. (ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.
(f) Firefighting:	(i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

(c) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(10) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.

(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.

(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.

(f) Exposure monitoring.

(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.

(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.

(11) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect the area of the body which may come in contact with DBCP.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) Removal and storage.

(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.

(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and solids. This clothing shall not be reworn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored

PERMANENT

in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(12) Housekeeping.

(a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(13) Hygiene facilities and practices. ~~((Hygiene facilities shall be provided and practices implemented in accordance with the requirements of WAC 296-24-12009-))~~

(a) Change rooms. The employer shall provide clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment whenever employees are required to wear protective clothing and equipment in accordance with subsections (8), (9) and (11) of this section.

(b) Showers.

(i) The employer shall assure that employees working in the regulated area shower at the end of the work shift.

(ii) The employer shall assure that employees whose skin becomes contaminated with DBCP-containing liquids or solids immediately wash or shower to remove any DBCP from the skin.

(iii) The employer shall provide shower facilities in accordance with WAC 296-24-12009 (3)(c).

(c) Lunchrooms. The employer shall provide lunchroom facilities which have a temperature controlled, positive

pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(d) Lavatories.

(i) The employer shall assure that employees working in the regulated area remove protective clothing and wash their hands and face prior to eating.

(ii) The employer shall provide a sufficient number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(e) Prohibition of activities in regulated areas. The employer shall assure that, in regulated areas, food or beverages are not present or consumed, smoking products and implements are not present or used, and cosmetics are not present or applied.

(14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. ~~((Within 30 days of the effective date of this section or time of initial assignment, and whenever exposure to DBCP, the employer shall provide a medical examination including))~~ At the time of initial assignment, annually thereafter, and whenever exposure to DBCP occurs, the employer shall provide a medical examination for employees who work in regulated areas, which includes at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(A) Sperm count;

(B) Complete urinalysis (U/A);

(C) Complete blood count; and

(D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

(A) Serum multiphasic analysis (SMA 12);

(B) Serum follicle stimulating hormone (FSH);

(C) Serum luteinizing hormone (LH); and

(D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(e) Physician's written opinion.

(i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER
1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER
1,2-Dibromo-3-chloropropane
CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory worn, if any; and

(D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the physician's written opinion;

(C) Any employee medical complaints related to exposure to DBCP;

(D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and

(E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) Effective date. This standard will become effective July 28, 1978.

(20) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

AMENDATORY SECTION (Amending Order 93-06, filed 10/20/93, effective 12/1/93)

WAC 296-62-07445 Appendix C—Qualitative and quantitative fit testing procedures—(Fit test protocols).

(1) General: The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT). All testing is to be conducted annually.

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece. Respirators of each size must be provided from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use; it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted, maintained and used properly, will provide substantial protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(i) Position of the mask on the nose;

(ii) Room for eye protection;

(iii) Room to talk; and

(iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

(i) Chin properly placed;

(ii) Adequate strap tension, not overly tightened;

(iii) Fit across nose bridge;

(iv) Respirator of proper size to span distance from nose to chin;

(v) Tendency of respirator to slip; and

(vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or in ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s). Inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine, in accordance with WAC 296-62-07423 (2) and (3), whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall maintain a record of the fit test administered to an employee. The record shall contain at least the following information:

- (i) Name of employee;
- (ii) Type of respirator;
- (iii) Brand, size of respirator;
- (iv) Date of test; and

(v) Where QNFT is used, the fit factor and strip chart recording or other recording of the results of the test. The record shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, without talking, the subject shall breathe slowly and deeply, taking care so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as exercise one. Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds. The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall assure that persons administering QLFTs are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(iii) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate within the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor free water (e.g., distilled or spring water) at approximately twenty-five degrees C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one-liter jar and

shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated and shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five-gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half

and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; and to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banana like odor of IAA, the respirator fit is inadequate. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the respirator fit was inadequate, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(d) Saccharin solution aerosol protocol.

The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(B) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (ii)(E) below) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after 30 squeezes (step (J)), the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(B) The fit test uses the same enclosure described in (i) above.

(C) The test subject shall don the enclosure while wearing the respirator selected in (1)(a) of this section. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the

enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in (1)(n) of this section.

(I) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) Quantitative fit test. The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(ii) Challenge agent means the aerosol, gas or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) Test subject means the person wearing the respirator for quantitative fit testing.

(iv) Normal standing position means standing erect and straight with arms down along the sides and looking straight ahead.

(v) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the

respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ration of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(C) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration;

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit

factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

AMENDATORY SECTION (Amending WSR 95-04-078, filed 1/30/95, effective 3/2/95)

WAC 296-62-07521 Lead. (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-306 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air ($30 \mu\text{g}/\text{m}^3$) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) General requirements.

(a) Employers will assess the hazards of lead in the work place and provide information to the employees about the hazards of the lead exposures to which they may be exposed.

(b) Information provided shall include:

(i) Exposure monitoring (including employee notification);

(ii) Written compliance programs;

(iii) Respiratory protection programs;

(iv) Personnel protective equipment and housekeeping;

(v) Medical surveillance and examinations;

(vi) Training requirements;

(vii) Recordkeeping requirements.

(4) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air ($50 \mu\text{g}/\text{m}^3$) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

$$\text{Maximum permissible limit (in } \mu\text{g}/\text{m}^3) = 400 \div \text{hours worked in the day.}$$

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (7) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those

periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(5) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (5), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (5)(c), the employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (5)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (5)(b) and (5)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (5)(b) and (5)(c) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer shall make a written record of such determination. The record shall include at least the information specified in subdivision (5)(c) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (5)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (5)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (5)(f)(ii), except as otherwise provided in subdivision (5)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than 30 µg/m³.

(6) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and maintain employee exposure to lead in accordance with the implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which

complies with the requirements of subsection (7) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m³, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m³.

(TABLE I)
IMPLEMENTATION SCHEDULE

Industry ¹	Compliance Dates ²		
	200 µg/m ³	100 µg/m ³	50 µg/m ³
Primary lead production	(³)	² June 29, 1984	² June 29, 1991
Secondary lead production	(³)	² June 29, 1984	² June 29, 1986
Lead acid battery manufacturing	(³)	² June 29, 1983	² June 29, 1986
Automobile manufacture/solder grinding	(³)	N/A	² June 29, 1986
Electronics, gray iron foundries, ink manufacture, paints and coatings manufacture, wall paper manufacture, can manufacture, and printing	(³)	N/A	² June 29, 1982
Brass and bronze ingot manufacture, lead chemical manufacture, and secondary copper smelting	(³)	N/A	4-5 years
Nonferrous foundries	(³)	N/A	4-5 years
All other industries	(³)	N/A	4-1/2 years

Note: ¹ Includes ancillary activities located on the same worksite.
² This date is calculated by counting, from June 29, 1981, (the date when the United States Supreme Court denied certiorari and lifted the stay on the implementation of paragraph (6)(a)), the number of years specified for the particular industry in the original lead standard for compliance with the given airborne exposure level. The denial of certiorari followed a decision of the United States Court of Appeals for the District of Columbia Circuit finding compliance with paragraph (6)(a) to be feasible for the relevant industries.
³ On effective date. This continues an obligation from WAC 296-62-07515 Table 1 which had been in effect since 1973.
⁴ Expressed as the number of years from the date on which the court lifts the stay on the implementation of paragraph (6)(a) for the particular industry.
⁵ Large nonferrous foundries (20 or more employees) are required to achieve 50 µg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees), however, are only required to achieve 75 µg/m³ by such controls. All foundries are required to comply within five years--)

TABLE I

Industry	Compliance dates: ¹ (50 µg/m ³)
Lead chemicals, secondary copper smelting	July 19, 1996
Nonferrous foundries	July 19, 1996. ²
Brass and bronze ingot manufacture	6 years. ³

¹ Calculated by counting from the date the stay on implementation of subsection (6)(a) was lifted by the U.S. Court of Appeals for

PERMANENT

the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m³ for exposure to airborne concentrations of lead levels for the particular industry.

2 Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m³ by such controls.

3 Expressed as the number of years from the date on which the Court lifts the stay on the implementation of subsection (6)(a) for this industry for employers to achieve a lead in air concentration of 75 µg/m³. Compliance with subsection (6) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m³ permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (7).

(c) Compliance program.

(i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (6)(a).

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under subsections (8), (9) and (10) of this regulation;

(G) An administrative control schedule required by subdivision (6)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

~~(d) (Bypass of interim level. Where an employer's compliance plan provides for a reduction of employee exposures to or below the PEL solely by means of engineering and work practice controls in accordance with the implementation schedule in Table I, and the employer has determined that compliance with the 100 µg/m³ interim level~~

~~would divert resources to the extent that it clearly precludes compliance, otherwise attainable, with the PEL by the required time, the employer may proceed with the plan to comply with the PEL in lieu of compliance with the interim level if:~~

~~(i) The compliance plan clearly documents the basis of the determination;~~

~~(ii) The employer takes all feasible steps to provide maximum protection for employees until the PEL is met; and~~

~~(iii) The employer notifies the director in writing within ten working days of the completion or revision of the compliance plan reflecting the determination.~~

~~(e)) Mechanical ventilation.~~

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

~~((f))~~ (e) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(7) Respiratory protection.

(a) General. Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this subsection. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement engineering or work practice controls~~((-except that after the dates for compliance with the interim levels in Table I, no employer shall require an employee to wear a negative pressure respirator longer than 4.4 hours per day)); and~~

(ii) In work situations in which engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit; and

(iii) Whenever an employee requests a respirator.

(b) Respirator selection.

(i) Where respirators are required under this section the employer shall select the appropriate respirator or combination of respirators from Table II.

TABLE II
RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator ¹
Not in excess of 0.5 mg/m ³ (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. ^{2,3}
Not in excess of 2.5 mg/m ³ (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. ³
Not in excess of 50 mg/m ³ (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters ³ ; or (2) Half-mask supplied air respirator operated in positive-pressure mode. ²
Not in excess of 100 mg/m ³ (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m ³ , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

Note: ¹ Respirators specified for high concentrations can be used at lower concentrations of lead.
² Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.
³ A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

(ii) The employer shall provide a powered, air-purifying respirator in lieu of the respirator specified, in Table II whenever:

(A) An employee chooses to use this type of respirator; and

(B) This respirator will provide adequate protection to the employee.

(iii) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(c) Respirator usage.

(i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with Appendix D. The tests shall be used to select facepieces that provide the required protection as prescribed in Table II.

(iii) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with subitem (11)(c)(i)(C) of this section to determine whether the employee can wear a respirator while performing the required duty.

(d) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.

(8) Protective work clothing and equipment.

(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, hats, and shoes or disposable shoe coverlets; and

(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-078.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (8)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200 µg/m³ of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (8)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (10)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (8)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD.
DO NOT REMOVE DUST BY BLOWING OR SHAKING.
DISPOSE OF LEAD CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(9) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the reentry of lead into the workplace.

(10) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (10)(b) through (10)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009.

(iii) The employer shall assure that employees who are required to shower pursuant to item (10)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(11) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (11)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.

(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (11)(a)(i) of this section;

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above 40 $\mu\text{g}/100\text{ g}$ of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 $\mu\text{g}/100\text{ g}$ of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i)(A), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or 6 $\mu\text{g}/100\text{ ml}$, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds 40 $\mu\text{g}/100\text{ g}$: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 $\mu\text{g}/100\text{ g}$;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that

the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to subitems (11)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (11)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (11)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(12) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

~~(A) (First year of the standard. During the first year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above 100 µg/m³ on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 80 µg/100 g of whole blood;~~

~~(B) Second year of the standard. During the second year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above 50 µg/m³ on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 70 µg/100 g of whole blood;~~

~~(C) Third year of the standard, and thereafter. Beginning with the third year following the effective date of the standard,)) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60 µg/100 g of whole blood; and~~

~~((D) Fifth year of the standard, and thereafter. Beginning with the fifth year following the effective date of the standard,)) (B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 µg/100 g of whole blood; provided, however, that an employee need not~~

be removed if the last blood sampling test indicates a blood lead level at or below 40 µg/100 g of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

~~(I) ((For an employee removed due to a blood lead level at or above 80 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 60 µg/100 g of whole blood;~~

~~(II) For an employee removed due to a blood lead level at or above 70 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 50 µg/100 g of whole blood;~~

~~(III)) For an employee removed due to a blood lead level at or above 60 µg/100 g, or due to an average blood lead level at or above 50 µg/100 g, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 µg/100 g of whole blood;~~

~~((IV)) (II) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.~~

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) **Removal.** The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) **Return.** The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) **Medical removal protection benefits.**

(i) **Provision of medical removal protection benefits.** The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) **Definition of medical removal protection benefits.** For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) **Follow-up medical surveillance during the period of employee removal or limitation.** During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) **Workers' compensation claims.** If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) **Other credits.** The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) **Employees whose blood lead levels do not adequately decline within eighteen months of removal.** The employer shall take the following measures with respect to

any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) **Voluntary removal or restriction of an employee.** Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (12)(b)(i) of this section.

(13) **Employee information and training.**

(a) **Training program.**

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (13)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

(A) The content of this standard and its appendices;

(B) The specific nature of the operations which could result in exposure to lead above the action level;

(C) The purpose, proper selection, fitting, use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);

(E) The engineering controls and work practices associated with the employee's job assignment;

(F) The contents of any compliance plan in effect; and

(G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.

(b) Access to information and training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(iii) In addition to the information required by item (13)(a)(v), the employer shall include as part of the training program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.

(14) Signs.

(a) General.

(i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.

(b) Signs.

(i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(15) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) the environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (11) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (11) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.

(c) Medical removals.

(i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (12) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(d) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (15) of this section to the director for examination and copying.

(ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Medical removal records shall be provided in the same manner as environmental monitoring records.

(iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (15) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(16) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(17) Effective date. The effective date of this standard is September 6, 1980.

(18) Startup dates. All obligations of this standard commence on the effective date except as follows:

(a) The initial determination under subdivision (5)(b) shall be made as soon as possible but no later than thirty days from the effective date.

(b) Initial monitoring under subdivision (5)(d) shall be completed as soon as possible but no later than ninety days from the effective date.

(c) Initial biological monitoring and medical examinations under subsection (11) shall be completed as soon as possible but no later than one hundred eighty days from the effective date. Priority for biological monitoring and medical examinations shall be given to employees whom the employer believes to be at greatest risk from continued exposure.

(d) Initial training and education shall be completed as soon as possible but no later than one hundred eighty days from the effective date.

(e) Hygiene and lunchroom facilities under subsection (10) shall be in operation as soon as possible but no later than one year from the effective year.

(f) Respiratory protection required by subsection (7) shall be provided as soon as possible but no later than the following schedule:

(i) Employees whose eight-hour TWA exposure exceeds $200 \mu\text{g}/\text{m}^3$ - on the effective date.

(ii) Employees whose eight-hour TWA exposure exceeds the PEL but is less than $200 \mu\text{g}/\text{m}^3$ - one hundred fifty days from the effective date.

(iii) Powered, air-purifying respirators provided under (7)(b)(ii) - two hundred ten days from the effective date.

(iv) Quantitative fit testing required under item (7)(c)(ii) - one year from effective date. Qualitative fit testing is required in the interim.

(g) Written compliance plans required by subdivision (6)(c) shall be completed and available for inspection and copying as soon as possible but no later than the following schedule:

(i) Employers for whom compliance with the PEL or interim level is required within one year from the effective date - six months from the effective date.

(ii) Employers in secondary lead smelting and refining and in lead storage battery manufacturing—one year from the effective date.

(iii) Employers in primary smelting and refining industry - one year from the effective date from the interim level; five years from the effective date for PEL.

(iv) Plans for construction of hygiene facilities, if required - six months from the effective date.

(v) All other industries—one year from the date on which the court lifts the stay on the implementation of paragraph (6)(a) for the particular industry.

(h) The permissible exposure limit in subsection (4) shall become effective one hundred fifty days from the effective date.

(19) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(a) Appendix A. Substance Data Sheet for Occupational Exposure to Lead.

(i) Substance identification.

(A) Substance. Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

(B) Compounds covered by the standard. The word "lead" when used in this standard means elemental lead, all inorganic lead compounds (except those which are not biologically available due to either solubility or specific chemical interaction), and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

(C) Uses. Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use,

shipbuilding and ship repairing, auto manufacturing, and printing.

(D) Permissible exposure. The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over an eight-hour work day.

(E) Action level. The standard establishes an action level of 30 micrograms per cubic meter of air ($30 \mu\text{g}/\text{m}^3$) time weighted average, based on an eight-hour work day. The action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

(ii) Health hazard data.

(A) Ways in which lead enters your body.

(I) When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.

(II) Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist, it can be inhaled and absorbed through your lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.

(III) A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in your blood and other tissue. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.

(B) Effects of overexposure to lead.

(I) Short-term (acute) overexposure. Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short-term dose of lead can lead to acute encephalopathy. Short-term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms

of health impairment and disease which arise after periods of exposure as short as days or as long as several years.

(II) Long-term (chronic) overexposure.

a) Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

b) Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

c) Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression of kidney dialysis or death is possible.

d) Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

e) Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(III) Health protection goals of the standard.

a) Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood ($40 \mu\text{g}/100\text{g}$). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below $30 \mu\text{g}/100\text{g}$ to minimize adverse

reproductive health effects to the parents and to the developing fetus.

b) The measurement of your blood lead level is the most useful indicator of the amount of lead absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms (μg) of lead (1 mg=1000 μg) per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometimes PbB's are expressed in the form of mg% or $\mu\text{g}\%$. This is a shorthand notation for 100g, 100ml, or dl.

c) PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

d) Once your blood lead level climbs above 40 $\mu\text{g}/100\text{g}$, your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150 $\mu\text{g}/100\text{g}$. Other studies have shown other forms of disease in some workers with PbBs well below 80 $\mu\text{g}/100\text{g}$. Your PbB is a crucial indicator of the risks to your health, but one other factor is extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

e) The best way to prevent all forms of lead-related impairments and diseases—both short-term and long-term—is to maintain your PbB below 40 $\mu\text{g}/100\text{g}$. The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own action, and seeing that your employer complies with the provisions governing his actions.

(IV) Reporting signs and symptoms of health problems. You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

(b) Appendix B. Employee Standard Summary. This appendix summarizes key provisions of the standard that you as a worker should become familiar with. The appendix discusses the entire standard.

(i) Permissible exposure limit (PEL). The standard sets a permissible exposure limit (PEL) of fifty micrograms of lead per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over and eight-hour workday. This is the highest level of lead in air to which you may be permissibly exposed over an eight-hour workday. Since it is an eight-hour average it permits short exposures above the PEL so long as for each eight-hour workday your average exposure does not exceed the PEL.

(ii) Exposure monitoring.

(A) If lead is present in the work place where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. The initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level ($30 \mu\text{g}/\text{m}^3$) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your work place.

(B) In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least seven hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead.

(C) If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

(D) Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if two consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your work place which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(iii) Methods of compliance. Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL.

(iv) Respiratory protection.

(A) Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

(B) Your employer is required to select respirators from the seven types listed in Table II of the respiratory protection section of chapter 296-62 WAC. Any respirator chosen must be approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH). This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your work place. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative-pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time.

(C) Your employer must also start a respiratory protection program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

(D) Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical. Obtaining a proper fit on each employee may require your employer to make available two or three different mask types. Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and which requires the force of your inhalation to draw air through the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator. Appendix D describes "qualitative" procedures which are acceptable under certain conditions.

(E) You must also receive from your employer proper training in the use of respirators. Your employer is required

to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

(F) The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

(v) Protective work clothing and equipment. If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200 $\mu\text{g}/\text{m}^3$. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He or she is responsible for providing repairs and replacement as necessary and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the work room air.

(vi) Housekeeping. Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the work place.

(vii) Hygiene facilities and practices.

(A) The standard requires that change rooms, showers and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. When the PEL is exceeded, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers and lunchrooms, must be used by workers exposed in excess of the PEL. After showering, no clothing or equipment worn during the shift may be worn home and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not

contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth or other cleaning methods. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

(B) All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(viii) Medical surveillance.

(A) The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have effectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (I) who have high body burdens of lead acquired over past years, (II) who have additional uncontrolled sources of nonoccupational lead exposure, (III) who exhibit unusual variations in lead absorption rates, or (IV) who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability - regardless of whether you are a man or a woman.

(B) All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts - periodic biological monitoring, and medical examinations.

(C) Your employer's obligation to offer medical surveillance is triggered by the results of the air monitoring program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which included blood lead level tests and medical examinations, must be completed for all covered employees no later than 180 days from the effective date of this standard. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance - both biological monitoring and medical examinations - available to all covered employees.

(D) Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every six months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures

an effect of lead on your body. If a worker's PbB exceeds 40 µg/100g, the monitoring frequency must be increased from every six months to at least every two months and not reduced until two consecutive PbBs indicate a blood lead level below 40 µg/100g. Each time your PbB is determined to be over 40µg/100g, your employer must notify you of this in writing within five working days of the receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your PbB exceeds certain criteria (see Discussion of Medical Removal Protection - subsection (12)). During the first year of the standard, this removal criterion is 80 µg/100g. Anytime your PbB exceeds 80 µg/100g your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80 µg/100g and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

(E) Medical examinations beyond the initial one must be made available on an annual basis if your blood lead levels exceeds 40µg/100g at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

(F) Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard (see item (ix) below).

(G) The standard specifies the minimum content of preassignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Preassignment and annual medical examinations must include (I) a detailed work history and medical history, (II) a thorough physical examination, and (III) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

(H) The standard does not require that you participate in any of the medical procedures, tests, etc., which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. Generally, your employer will choose the physician who conducts medical surveillance under the lead standard - unless you

and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

(I) The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (I) the standard and its appendices, (II) a description of your duties as they relate to lead exposure, (III) your exposure level, (IV) a description of personal protective equipment you wear, (V) prior blood level results, and (VI) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (I) the physician's opinion as to whether you have any medical conditions which places you at increased risk of material impairment to health from exposure to lead, (II) any recommended special protective measures to be provided to you, (III) any blood lead level determinations, and (IV) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

(J) The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker to learn of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

(K) The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca

Na₂EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

(L) The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to pre-designated concentrations believed to be safe. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

(M) The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation, involves giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

(N) In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(ix) Medical removal protection.

(A) Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a long-term worker's blood lead level does not adequately decline during eighteen months of removal.

(B) During the first year of the standard, if your blood lead level is 80 µg/100g or above you must be removed from any exposure where your air lead level without a respirator would be 100 µg/m³ or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 µg/100g. These criteria for removal and return will change according to the following schedule:

TABLE 1

Effective Date	Removal Blood Level ($\mu\text{g}/100\text{g}$)	Air Lead ($\mu\text{g}/\text{m}^3$)	Return Blood Lead ($\mu\text{g}/100\text{g}$)
9/6/81	At or above 70	50 or above	At or below 50
9/6/82	At or above 60	30 or above	At or below 40
9/6/84	At or above 50 averaged over six months	30 or above	At or below 40

(C) You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the physician indicates it is safe for you to do so.

(D) The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

(E) In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

(F) In all of these situations, MRP benefits must be provided during the period of removal - i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings include more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the physician believes to be appropriate. If you do not participate in this follow-up medical surveillance, you may lose your eligibility for MRP benefits.

(G) When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred, that is where you go back. If not,

you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

(H) If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

(I) The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(x) Employee information and training.

(A) Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition, your employer must make readily available to all employees, included those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials provided to the employer under the Washington Industrial Safety and Health Act (WISHA).

(B) Your employer is required to complete this training for all employees by March 4, 1981. After this date, all new employees must be trained prior to initial assignment to areas where there is possibility of exposure over the action level. This training program must also be provided at least annually thereafter.

(xi) Signs. The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING
LEAD WORK AREA
NO SMOKING OR EATING

(xii) Recordkeeping.

(A) Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion and a copy of the results of the examination. All of the above kinds of records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

(B) Recordkeeping is also required if you are temporarily removed from your job under the MRP program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

(C) The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbBs must also be provided to you upon request, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(xiii) Observations of monitoring. When air monitoring for lead is performed at your work place as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the areas that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(xiv) Effective date. The standard's effective date is September 6, 1980, and the employer's obligation under the standard begin to come into effect as of that date. The standard was originally adopted as WAC 296-62-07349 and later recodified to WAC 296-62-07521.

(c) Appendix C. Medical Surveillance Guidelines.

(i) Introduction.

(A) The primary purpose of the Washington Industrial Safety and Health Act of 1973 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupational health standard for inorganic lead* was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

*The term inorganic lead used throughout the medical surveillance appendices is meant to be synonymous with the definition of lead set forth in the standard.

(B) Under this final standard in effect as of September 6, 1980, occupational exposure to inorganic lead is to be limited to 50 µg/m³ (micrograms per cubic meter) based on an eight-hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from one to ten years are provided for different industries to implement these controls which are based on individual industry considerations. Until these controls are in place, respirators must be used to meet the 50 µg/m³ exposure limit.

(C) The standard also provides for a program of biological monitoring and medical surveillance for all

employees exposed to levels of inorganic lead above the action level of 30 µg/m³ for more than thirty days per year.

(D) The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

(E) Item (ii) provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and WISHA's position on prophylactic chelation therapy are also included in this section.

(F) Item (iii) discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

(G) Item (iv) outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in item (ii).

(H) Item (v) provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

(I) Airborne levels to be achieved without reliance on respirator protection through a combination of engineering and work practice or other administrative controls are illustrated in the following table:

Industry	Permissible Lead Level/Compliance Date		
	200µg/m ³	100µg/m ³	50µg/m ³
Primary Lead Production	1973	06/29/84	06/29/91
Secondary Lead Production	1973	06/29/84	06/29/91
Lead Acid Battery Manufacturing	1973	06/29/83	06/29/91
Automobile Mfg./Solder, Grinding	1973	N/A	03/08/97
Electronics, Gray Iron Foundries, Ink Mfg., Paints and Coatings Mfg., Can Mfg., Wallpaper Mfg., and Printing.	1973	N/A	06/29/91
Lead Chemical Mfg., Nonferrous Foundries, Leaded Steel Mfg., Battery Breaking in the Collection and Processing of Scrap (when not a part of secondary lead smelter)			
Secondary Copper Smelter, Brass and Bronze Ingot Production.	1973	N/A	N/A ^{1*}
All Other Industries	1973	N/A	09/08/92

* Feasibility of achieving the PEL by engineering and work practice controls for these industries has yet to be resolved in court, therefore no date has been scheduled.

(ii) Medical surveillance and monitoring requirements for workers exposed to inorganic lead.

PERMANENT

(A) Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 µg/m³ TWA for more than thirty days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

(B) Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 µg/m³ is to be determined at least every six months. The frequency is increased to every two months for employees whose last blood lead level was between 40µg/100g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. Zinc protoporphyrin (ZPP) measurement is ~~((strongly recommended))~~ required on each occasion that a blood lead level measurement is made.

(C) An annual medical examination and consultation performed under the guidelines discussed in item (iv) is to be made available to each employee for whom a blood test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40µg/100g. Also, an

examination is to be given to all employees prior to their assignment to an area in which airborne lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

(D) Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal program (MRP). The object of the MRP program is to provide temporary medical removals to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 10 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

TABLE 10

	EFFECTIVE DATE				
	Sept.8, 1980	Sept. 8, 1981	Sept. 8, 1982	Sept.8, 1983	Sept. 8, 1984
A. Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level with two weeks of first report.)	>80 µg/100g.	>70 µg/100g.	>60 µg/100g.	>60 µg/100g.	>60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g or greater unless last sample is 40 µg/100g or less.
B. Frequency which employees exposed to action level of lead (30 µg/m ³ TWA) must have blood lead level checked. (ZPP is also strongly recommended in each occasion that a blood test is obtained):					
1. Last blood lead level less than 40 µg/100g	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.
2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above)	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.
3. Employees removed from exposure to lead because of an elevated blood lead level	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.
C. Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).	100 µg/m ³ 8 hr TWA	50 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA
D. Blood lead level confirmed with a second blood analysis at which employee may return to work. Permissible exposure without regard to respirator protection as listed by industry in Table 1.	60 µg/100g	50 µg/100g	40 µg/100g	40 µg/100g	40 µg/100g

NOTE: Where medical action indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

PERMANENT

TABLE 10

	<u>EFFECTIVE DATE</u>				
	<u>Sept. 6, 1980</u>	<u>Sept. 6, 1981</u>	<u>Sept. 6, 1982</u>	<u>Sept. 6, 1983</u>	<u>Sept. 6, 1984</u>
<u>A. Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level with two weeks of first report).</u>	<u>>80 µg/100g.</u>	<u>>70 µg/100g.</u>	<u>>60 µg/100g.</u>	<u>>60 µg/100g.</u>	<u>>60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g. or greater unless last sample is 40 µg/100g or less.</u>
<u>B. Frequency which employees exposed is action level of lead (30 µg/m³ TWA) must have blood lead level checked. (ZPP is also required in each occasion that a blood test is obtained):</u>					
<u>1. Last blood lead level less than 40 µg/100g</u>	<u>Every 6 months.</u>	<u>Every 6 months.</u>	<u>Every 6 months.</u>	<u>Every 6 months.</u>	<u>Every 6 months.</u>
<u>2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above)</u>	<u>Every 2 months.</u>	<u>Every 2 months.</u>	<u>Every 2 months.</u>	<u>Every 2 months.</u>	<u>Every 2 months.</u>
<u>3. Employees removed from exposure to lead because of an elevated blood lead level</u>	<u>Every 1 month.</u>	<u>Every 1 month.</u>	<u>Every 1 month.</u>	<u>Every 1 month.</u>	<u>Every 1 month.</u>
<u>C. Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).</u>	<u>100 µg/m³ 8 hr TWA</u>	<u>50 µg/m³ 8 hr TWA</u>	<u>30 µg/m³ 8 hr TWA</u>	<u>30 µg/m³ 8 hr TWA</u>	<u>30 µg/m³ 8 hr TWA</u>
<u>D. Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.</u>	<u>60 µg/100g</u>	<u>50 µg/100g</u>	<u>40 µg/100g</u>	<u>40 µg/100g</u>	<u>40 µg/100g</u>

Note: Where medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

(E) Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight-hour TWA exposure to lead of 30 µg/m³ or more whenever either of the following circumstances apply. (I) a blood lead level of 60 µg/100g or greater is obtained and

confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first blood sample test, or (II) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 µg/100g, unless the last blood sample indicates a blood lead level at or below 40 µg/100g, in which case the employee need not be removed. Medical removal is to continue until two consecutive blood lead levels are 40 µg/100g or less.

(F) During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially

PERMANENT

declined during the period of removal. From March 1, 1979, to March 1, 1980, the blood lead level requiring employee medical removal is 80 $\mu\text{g}/100\text{g}$. Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily eight hour TWA exposure to lead at or above 100 $\mu\text{g}/\text{m}^3$. Workers so removed are to be returned to work when their blood lead levels are at or below 60 $\mu\text{g}/100\text{g}$ of whole blood. From March 1, 1980, to March 1, 1981, the blood lead level requiring medical removal is 70 $\mu\text{g}/100\text{g}$. During this period workers need only be removed from jobs having a daily eight hour TWA exposure to lead at or above 50 $\mu\text{g}/\text{m}^3$ and are to be returned to work when a level of 50 $\mu\text{g}/100\text{g}$ is achieved. Beginning March 1, 1981, return depends on the worker's blood lead level declining to 40 $\mu\text{g}/100\text{g}$ of whole blood.

(G) As part of the standard, the employer is required to notify in writing each employee whose whole blood lead level exceeds 40 $\mu\text{g}/100\text{g}$. In addition, each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

(H) In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to conceive children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that the special measures are no longer needed.

(I) During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker has not been removed) for a period of up to eighteen months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful work place. The provisions of MRP benefits during the

employee's removal period may, however, be conditioned upon participation in medical surveillance.

(J) On rare occasions, an employee's blood lead level may not acceptably decline within eighteen months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past eighteen months for some employees or specify special protective measures to be implemented.

(K) The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

(L) The employer must provide examining and consulting physicians with the following specific information: A copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physician's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

(M) Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or nonoccupationally related medical condition requiring further treatment or evaluation.

(N) The standard provides for the use of respirators when engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate

fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice are inadequate by providing interim or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

(O) In its final standard on occupational exposure to inorganic lead, WISHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels and other laboratory tests as appropriate. EDTA and penicillamine, which are the primary chelating agents used in the therapy of occupational lead poisoning, have significant potential side effects and their use must be justified on the basis of expected benefits to the worker.

(P) Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the tests can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

(Q) Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for forty years or the duration of employment plus twenty years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be made available upon request to representatives of the director of the department of labor and industries. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

(R) In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

(iii) Adverse health effects of inorganic lead.

(A) Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being

refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments; first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40 $\mu\text{g}/100\text{g}$, and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30 $\mu\text{g}/100\text{g}$ to minimize adverse reproduction health effects to the parent and developing fetus. The adverse effects of lead on reproduction are being actively researched and WISHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

(B) The spectrum of health effects caused by lead exposure can be sub-divided into five developmental states; normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses [responses] and exposures in the working population. WISHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

(I) Heme synthesis inhibition.

a) The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes [enzymes] of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20 $\mu\text{g}/100\text{g}$ whole blood. At a blood lead level of 40 $\mu\text{g}/100\text{g}$, more than twenty percent of the population would have seventy percent inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40 $\mu\text{g}/100\text{g}$.

b) Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50 $\mu\text{g}/100\text{g}$ or greater, nearly 100 percent of the population will have an increase FEP. There is also an exponential relationship between blood lead levels greater than 40 $\mu\text{g}/100\text{g}$ and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

c) While the significance of these effects is subject to debate, it is WISHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

d) One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50 $\mu\text{g}/100\text{g}$ can be associated with a definite

decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80 $\mu\text{g}/100\text{g}$. Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

e) In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

(II) Neurological effects.

a) Inorganic lead had been found to have toxic effects on both the central and peripheral nervous systems. The earliest stage of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

b) The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

c) While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60 $\mu\text{g}/100\text{g}$ whole blood and therefore recommend a 40 $\mu\text{g}/100\text{g}$ maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

d) The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50 $\mu\text{g}/100\text{g}$ is manifested by slowing or motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop, much less commonly, foot drop.

e) In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50 $\mu\text{g}/100\text{g}$ have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculation. Whether these effects occur at levels of 40 $\mu\text{g}/100\text{g}$ is undetermined.

f) While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

(III) Gastrointestinal. Lead may also effect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea

and vomiting. Lead colic rarely develops at blood lead levels below 80 $\mu\text{g}/100\text{g}$.

(IV) Renal.

a) Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal functions remain normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

b) Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

(V) Reproductive effects.

a) Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can occur. Teratospermia has been noted at mean blood lead levels of 53 $\mu\text{g}/100\text{g}$ and hypospermia and asthenospermia at 41 $\mu\text{g}/100\text{g}$. Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

b) Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

c) Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

d) Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

e) Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12-14 weeks of gestation and increases until birth.

f) There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50-60 $\mu\text{g}/100\text{g}$ in children can cause significant neurobehavioral

impairments, and there is evidence of hyperactivity at blood levels as low as 25 µg/100g. Given the overall body of literature concerning the adverse health effects of lead in children, WISHA feels that the blood lead level in children should be maintained below 30 µg/100g with a population mean of 15 µg/100g. Blood lead levels in the fetus and newborn likewise should not exceed 30 µg/100g.

g) Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both males and females as well as the risk of genetic damage of lead on both the ovum and sperm, WISHA recommends a 30 µg/100g maximum permissible blood lead level in both males and females who wish to bear children.

(IV) Other toxic effects.

a) Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidneys or if some other mechanism is involved.

b) Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

(iv) Medical evaluation.

(A) The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section (ii), lead can affect numerous organ systems and produce a wide array of signs and symptoms, most of which are nonspecific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

(B) The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead-containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

(C) Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

(D) A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing

or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long-term effects such as neurotoxicity and nephrotoxicity are considered.

(E) The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also nonoccupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

(F) A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

- General - weight loss, fatigue, decreased appetite.
- Head, Eyes, Ears, Nose, Throat (HEENT) - headaches, visual disturbance or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
- Cardio-pulmonary - shortness of breath, cough, chest pains, palpitations, or orthopnea.
- Gastrointestinal - nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.
- Neurologic - irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbance in gait, difficulty in climbing stairs, or seizures.
- Hematologic - pallor, easy fatigability, abnormal blood loss, melena.
- Reproductive (male or female and spouse where relevant) - history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.
- Musculo-skeletal - muscle and joint pains.

(G) The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

(H) The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active

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search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

(I) A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

(J) Cranial nerve evaluation should also be included in the routine examination.

(K) The abdominal examination should include auscultation for bowel sounds and abnormal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

(L) Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

(M) As part of the medical evaluation, the lead standard requires the following laboratory studies.

(I) Blood lead level.

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology.

(III) Blood urea nitrogen.

(IV) Serum creatinine.

(V) Routine urinalysis with microscopic examination.

(VI) A zinc protoporphyrin level.

(N) In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

(O) Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

(P) If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

(Q) If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

(R) If renal disease is questioned, a 24-hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

(S) An electrocardiogram and chest x-ray may be obtained as deemed appropriate.

(T) Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

(v) Laboratory evaluation.

(A) The blood level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

(B) This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

(C) The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90 percent of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidneys, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable stores and excreted. Consequently, a high blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

(D) Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

(E) To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Analysis is to be made using atomic absorption spectrophotometry anodic stripping; voltammetry or any method which meets the accuracy requirements set forth by the standard.

(F) The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

(G) The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead

absorption over the preceding three to four months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

(H) Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes place in the iron, forming ZPP.

(I) An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20-30 $\mu\text{g}/100\text{g}$ in some workers. Once the blood lead level has reached 40 $\mu\text{g}/100\text{g}$ there is more marked rise in the ZPP value from its normal range of less than 100 $\mu\text{g}/100\text{ml}$. Increases in blood lead levels beyond 40 $\mu\text{g}/100\text{g}$ are associated with exponential increases in ZPP.

(J) Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day lifespan. Therefore, the ZPP level in blood reflects the average ZPP production over the previous three to four months and consequently the average lead exposure during that time interval.

(K) It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50 $\mu\text{g}/100\text{ml}$ whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 $\mu\text{g}/100\text{ml}$ and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure the blood leads were determined using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard, by a CDC approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

(L) ZPP has characteristic fluorescence spectrum with a peak at 594nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

(M) However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead - ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in item (ii) are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

(N) Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the

inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

(O) The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000 $\mu\text{g}/1$ in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

(vi) Summary.

(A) The WISHA standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30 $\mu\text{g}/\text{m}^3$ TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

(B) Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

(C) This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects.

(D) It is hoped that this review and discussion will give the physician a better understanding of the WISHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

(d) Appendix D. Qualitative Fit Test Protocols. This appendix specifies the only allowable qualitative fit test (QLFT) protocols permissible for compliance with WAC 296-62-07521 (7)(c)(ii).

(i) Isoamyl acetate protocol.

(A) Odor threshold screening.

(I) Three 1-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(II) Odor-free water (e.g., distilled or spring water) at approximately 25° C shall be used for the solutions.

(III) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(IV) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two

rooms shall be well ventilated but may not be connected to the same recirculating ventilation system.

(V) The odor test solution is prepared in a second jar by placing .4 cc of the stock solution into 500 cc of odor-free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(VI) A test blank is prepared in a third jar by adding 500 cc of odor-free water.

(VII) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically dried off and switched to avoid people thinking the same jars always has the IAA.

(VIII) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2); "The purpose of this test is to determine if you can smell banana oil at low concentrations. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(IX) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(X) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA QLFT may not be used.

(XI) If the test subject correctly identifies the jar containing the odor test solution he or she may proceed to respirator selection and fit testing.

(B) Respirator selection.

(I) The test subject shall be allowed to select the most comfortable respirator from a large array of various sizes and manufacturers that includes at least three sizes of elastomeric half facepieces and units of at least two manufacturers.

(II) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to assess a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This may not constitute formal training on respirator use, only a review.

(III) The test subject should understand that he or she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly, will provide adequate protection.

(IV) The test subject holds each facepiece up to his or her face and eliminates those which are obviously not giving a comfortable fit. Normally, selection will begin with a half-mask and if a fit cannot be found here, the subject will be asked to go to the full facepiece respirators. (A small percentage of users will not be able to wear any half-masks.)

(V) The more comfortable facepieces are recorded; the most comfortable mask is donned and worn at least five

minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (VI) below. If the test subject is not familiar with using a particular respirator, he or she shall be directed to don the mask several times and to adjust the straps each time, so that he or she becomes adept at setting proper tension on the straps.

(VI) Assessment of comfort shall include reviewing the following points with the test subject:

- Chin properly placed.
- Positioning of mask on nose.
- Strap tension.
- Fit across nose bridge.
- Room for safety glasses.
- Distance from nose to chin.
- Room to talk.
- Tendency to slip.
- Cheeks filled out.
- Self-observation/in mirror.
- Adequate time for assessment.

(VII) The test subject shall conduct the conventional negative and positive-pressure fit checks (e.g., see ANSI Z88.2-1980). Before conducting the negative or positive-pressure checks, the subject shall be told to "seat" his or her mask by rapidly moving the head side-to-side and up and down, taking a few deep breaths.

(VIII) The test subject is now ready for fit testing.

(IX) After passing the fit test, the test subjects shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(X) The employee shall be given the opportunity to select a different facepiece and be retested if during the first two weeks of on-the-job wear, the chosen facepiece becomes unacceptably uncomfortable.

(C) Fit test.

(I) The fit test chamber shall be substantially similar to a clear 55 gallon drum liner suspended inverted over a two foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(II) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(III) After selecting, donning, and properly adjusting a respirator himself or herself, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hook, to prevent general room contamination.

(IV) A copy of the following test exercises and rainbow (or equally effective) passage shall be taped to the inside of the test chamber:

- a) Normal breathing.
- b) Deep breathing. Be certain breaths are deep and regular.
- c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.
- d) Nodding head up-and-down. Be sure certain motions are complete and made about every second. Alert the test

subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

f) Normal breathing.

(V) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(VI) Upon entering the test chamber, the test subject shall be given a six inch by five inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three-quarters of one cc of pure IAA. The test subject will hang the wet towel on the hook at the top of the chamber.

(VII) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of his or her cooperation, the purpose of the head exercises, or to demonstrate some of the exercises.

(VIII) Each exercise described in segment (IV) above shall be performed for at least one minute.

(IX) If at any time during the test, the subject detects the banana-like odor of IAA, he or she shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(X) Upon returning to the selection room, the subject shall remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, etc. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(XI) If a person cannot be fitted with the selection of half-mask respirators, include full facepiece models in the selection process. When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having him break the face seal and take a breath before exiting the chamber.

(XII) When the test subject leaves the chamber he or she shall remove the saturated towel, returning it to the test conductor. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag. There is no significant IAA concentration buildup in the test chamber from subsequent tests.

(XIII) Persons who have successfully passed this fit test may be assigned the use of the tested respirator in atmospheres with up to ten times the PEL of airborne lead. In other words this IAA protocol may be used to assign a protection factor no higher than ten.

(ii) Saccharin solution aerosol protocol.

(A) Taste threshold screening.

(I) Threshold screening as well as fit testing employees shall use an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movement of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly of part #FT 14 and FT 15 combined is adequate.

(II) The test closure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(III) The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(IV) The test subject shall don the test enclosure. For the threshold screening test, he or she shall breathe through his or her open mouth with tongue extended.

(V) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(VI) The threshold check solution consists of 0.83 grams of sodium saccharin(7) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see (C)(VI) below) in 100 cc of water.

(VII) To produce the aerosol the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(VIII) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(IX) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(X) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(XI) The test conductor will take note of the number of squeezes required to elicit a taste response.

(XII) If the saccharin is not tasted after thirty squeezes (Step (A)(IX)) the test subject may not perform the saccharin fit test.

(XIII) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(XIV) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(XV) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(B) Respirator selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with a particulate filter cartridge.

(C) Fit test.

(I) The fit test uses the same enclosure described in (i)(B)(I) and (II) above.

(II) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(III) The test subject shall don the enclosure while wearing the respirator selected on Section (A) above. The respirator shall be properly adjusted and equipped with a particulate filter cartridge.

(IV) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(V) A second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(VI) The first test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(VII) As before, the test subject shall breathe through the open mouth with tongue extended.

(VIII) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (A)(X) above.)

(IX) After generation of the aerosol the test subject shall be instructed to perform the following exercises for one minute each.

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up-and-down. Be certain motions are complete. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(X) Every thirty seconds, the aerosol concentration shall be replenished using one-half the number of squeezes as initially (C)(VIII).

(XI) The test subject shall so indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(XII) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(XIII) Successful completion of the test protocol shall allow the use of the tested respirator in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors no higher than ten.

(iii) Irritant fume protocol.

(A) Respirator Selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with high efficiency cartridges.

(B) Fit Test.

(I) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize him or her with its characteristic odor.

(II) The test subject shall properly don the respirator selected as above, and wear it for at least ten [ten] minutes before starting the fit test.

(III) The test conductor shall review this protocol with the test subject before testing.

(IV) The test subject shall perform the conventional positive pressure and negative pressure fit checks. Failure of either check shall be cause to select an alternate respirator.

(V) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(VI) Advise the subject that the smoke can be irritating to the eyes and instruct him or her to keep his or her eyes closed while the test is performed.

(VII) The test conductor shall direct the stream of irritant smoke from the tube toward the face area of the test subject. The conductor shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(VIII) The following exercises shall be performed while the respirator seal is being challenged by the smoke. Each shall be performed for one minute.

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side-to-side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up-and-down. Be certain motions are complete. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking—slowly and distinctly, count backwards from 100.

f) Normal breathing.

(IX) If the irritant smoke produces an involuntary reaction (cough) by the test subject, the test conductor shall stop the test. In this case the tested respirator is rejected and another respirator shall be selected.

(X) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube to determine whether he or she reacts to the smoke. Failure to evoke a response shall void the test.

(XI) Steps (B)(IV), (VII), and (VIII) of this protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the irritant smoke.

(XII) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors not exceeding ten.

(e) Appendix E: Recommendations to employers concerning high-risk tasks (nonmandatory).

The department advises employers that the following tasks have a high risk for lead overexposure (this list is not complete; other tasks also can result in lead over-exposure):

- Any open flame operation involving lead-containing solder in a manner producing molten solder, including the manufacture or repair of motor vehicle radiators;
- Sanding, cutting or grinding of lead-containing solder;
- Breaking, recycling or manufacture of lead-containing batteries;
- Casting objects using lead, brass, or lead-containing alloys;
- Where lead-containing coatings or paints are present:
 - abrasive blasting
 - welding
 - cutting
 - torch burning
 - manual demolition of structures
 - manual scraping
 - manual sanding
 - heat gun applications
 - power tool cleaning
 - rivet busting
 - clean-up activities where dry expendable abrasives are used
 - abrasive blasting enclosure movement and removal;
- Spray-painting with lead-containing paint;
- Using lead-containing mortar;
- Lead burning;
- Operation or cleaning of shooting facilities where lead bullets are used;
- Formulation or processing of lead-containing pigments or paints;
- Cutting, burning, or melting of lead-containing materials.

The department recommends that annual blood lead testing be offered to all employees potentially overexposed to lead, including those performing the tasks listed above, regardless of air lead levels. Research has shown that air lead levels often do not accurately predict workers' lead overexposure. The blood lead testing will provide the most information if performed during a period of peak lead exposure.

Employers should be aware that the United States Public Health Service has set a goal of eliminating occupational exposures which result in whole blood lead levels of 25 µg/dl or greater. This goal should guide whether employees' blood lead levels indicate lead overexposure.

If blood lead levels are elevated in an employee performing a task associated with lead overexposure, employers should assess the maintenance and effectiveness of exposure controls, hygiene facilities, respiratory protection program, the employee's work practices and personal hygiene, and the employee's respirator use, if any. If a deficiency exists in any of these areas, the employer should correct the problem.

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 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07533 Appendix E qualitative and quantitative fit testing procedures. Fit test protocols.

(1) The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT).

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece; and units from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(i) Position of the mask on the nose;

(ii) Room for eye protection;

(iii) Room to talk; and

(iv) Position of mask on face and cheeks.

(g) The following criteria shall be used to help determine the adequacy of the respirator fit:

(i) Chin properly placed;

(ii) Adequate strap tension, not overly tightened;

(iii) Fit across nose bridge;

(iv) Respirator of proper size to span distance from nose to chin;

(v) Tendency of respirator to slip; and

(vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or ANSI Z88.2-1980. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall certify that a successful fit test has been administered to the employee. The certification shall include the following information:

- (i) Name of employee;
- (ii) Type, brand, and size of respirator; and
- (iii) Date of test.

Where QNFT is used, the fit factor, strip chart, or other recording of the results of the test, shall be retained with the certification. The certification shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as exercise in (n)(i) of this subsection.

Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds.

The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(iii) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening.

The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor free water (e.g., distilled or spring water) at approximately twenty-five degrees C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a one liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off, and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hand the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the banana like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Saccharin solution aerosol protocol. The saccharin solution aerosol QLFT protocol is the only currently available, validated test protocol for use with particulate disposable dust respirators not equipped with high-efficiency filters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts NZ FT 14 and NZ FT 15 combined, is adequate.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in ((+)) 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (c)(ii)(E) of this subsection) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after thirty squeezes (subitem (J)), the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(B) The fit test uses the same enclosure described in (c)(i) of this subsection.

(C) The test subject shall don the enclosure while wearing the respirator selected in (c)(i) of this subsection. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in subsection (1)(h) of this section.

(I) Every thirty seconds the aerosol concentration shall be replenished using one-half the number of squeezes as initially.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(d) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) "Quantitative fit test." The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(ii) "Challenge agent" means the aerosol, gas, or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Maximum peak penetration method" means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) "Average peak penetration method" means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an

average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(C) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration; or

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-07550 Appendix E—Qualitative and quantitative fit testing procedures. FIT test protocols. Because exposure to formaldehyde can affect the employee's ability to detect common odorants, fit test results from the isoamyl acetate test must be augmented by results from either the saccharin or irritant smoke test.

(1) The employer shall include the following provisions in the fit test procedures. These provisions apply to both qualitative fit testing (QLFT) and quantitative fit testing (QNFT).

(a) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least three sizes of elastomeric facepieces of the type of respirator that is to be tested, i.e., three sizes of half mask; or three sizes of full facepiece; and units from at least two manufacturers.

(b) Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(c) The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.

(d) The test subject shall be instructed to hold each facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

(e) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (f) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(f) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (i) Position of the mask on the nose;
- (ii) Room for eye protection;
- (iii) Room to talk;
- (iv) Position of mask on face and cheeks.
- (g) The following criteria shall be used to help determine the adequacy of the respirator fit:
 - (i) Chin properly placed;
 - (ii) Adequate strap tension, not overly tightened;
 - (iii) Fit across nose bridge;
 - (iv) Respirator of proper size to span distance from nose to chin;
 - (v) Tendency of respirator to slip;
 - (vi) Self-observation in mirror to evaluate fit and respirator position.

(h) The test subject shall conduct the negative and positive pressure fit checks as described below or in the latest edition of ANSI Z88.2. Before conducting the negative or positive pressure test, the subject shall be told to seat the mask on the face by moving the head from side to side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

(i) Positive pressure test. Close off the exhalation valve and exhale gently onto the facepiece. The face fit is considered satisfactory if a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve and then carefully replacing it after the test.

(ii) Negative pressure test. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(i) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or long sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

(j) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory disease or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(k) The test subject shall be given the opportunity to wear the successfully fitted respirator for a period of two weeks. If at any time during this period the respirator becomes uncomfortable, the test subject shall be given the opportunity to select a different facepiece and to be retested.

(l) The employer shall certify that a successful fit test has been administered to the employee. The certification shall include the following information:

- (i) Name of employee;
- (ii) Type, brand, and size of respirator; and
- (iii) Date of test.

Where QNFT is used, the fit factor, strip chart, or other recording of the results of the test, shall be retained with the

certification. The certification shall be maintained until the next fit test is administered.

(m) Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure.

The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least five minutes before the start of the fit test.

(n) Test exercises. The test subject shall perform exercises, in the test environment, in the manner described below:

(i) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(ii) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(iii) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(iv) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(v) Talking. The subject shall talk out loud slowly and loudly enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from one hundred, or recite a memorized poem or song.

(vi) Grimace. The test subject shall grimace by smiling or frowning.

(vii) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(viii) Normal breathing. Same as (n)(i) of this subsection.

(A) Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for fifteen seconds.

(B) The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(2) Qualitative fit test (QLFT) protocols.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(ii) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that the equipment is in proper working order.

(iii) The employer shall assure the QLFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Isoamyl acetate protocol.

(i) Odor threshold screening. The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(A) Three one-liter glass jars with metal lids are required.

(B) Odor-free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a one-liter jar and shaking for thirty seconds. A new solution shall be prepared at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor-free water using a clear dropper or pipette. The solution shall be shaken for thirty seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(F) A test blank shall be prepared in a third jar by adding 500 cc of odor-free water.

(G) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instruction shall be typed on a card and placed on the table in front of the two jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contain a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(ii) Isoamyl acetate fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing

room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(E) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half, and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(F) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(G) If at any time during the test, the subject detects the bananalike odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(H) If the test has failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber and again begin the procedure described in (b)(ii)(A) through (G) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(I) When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(J) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the test area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration build-up in the test chamber during subsequent tests.

(c) Saccharin solution aerosol protocol. The saccharin solution aerosol QLFT protocol is the only currently available, validated test protocol for use with particulate disposable dust respirators not equipped with high-efficiency filters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(i) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(A) Threshold screening as well as fit testing subjects shall wear an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts NZ FT 14 and NZ FT 15 combined, is adequate.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her wide open mouth with tongue extended.

(D) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(E) The threshold check solution consists of 0.83 grams of sodium saccharin USP in ((+)) 100 cc of warm water. It can be prepared by putting 1 cc of the fit test solution (see (c)(ii)(E) of this subsection) in 100 cc of distilled water.

(F) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(G) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(H) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(I) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(J) The test conductor will take note of the number of squeezes required to solicit a taste response.

(K) If the saccharin is not tasted after thirty squeezes, the test subject may not perform the saccharin fit test.

(L) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(M) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(N) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(ii) Saccharin solution aerosol fit test procedure.

(A) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(B) The fit test uses the same enclosure described in (c)(i) of this subsection.

(C) The test subject shall don the enclosure while wearing the respirator selected in (c)(i) of this subsection. The respirator shall be properly adjusted and equipped with a particular filter(s).

(D) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(E) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to 100 cc of warm water.

(F) As before, the test subject shall breathe through the open mouth with tongue extended.

(G) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test.

(H) After generating the aerosol the test subject shall be instructed to perform the exercises in subsection (1)(n) of this section.

(I) Every thirty seconds the aerosol concentration shall be replenished using one-half the number of squeezes as initially used.

(J) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(K) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

(d) Irritant fume protocol.

(i) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(ii) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its characteristic odor.

(iii) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach one end of the smoke tube to a low flow air pump set to deliver two hundred milliliters per minute.

(iv) If a half-mask is being fitted, advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(v) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/she shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(vi) The exercises identified in subsection (1)(n) of this section shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(vii) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(viii) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

(3) Quantitative fit test (QNFT) protocol.

(a) General.

(i) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(ii) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(iii) The employer shall assure that QNFT equipment is kept clean and well maintained so as to operate at the parameters for which it was designed.

(b) Definitions.

(i) "Quantitative fit test." The test is performed in a test chamber. The normal air-purifying element of the respirator is replaced by a high-efficiency particulate air (HEPA) filter in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agency is a gas or vapor.

(ii) "Challenge agent" means the aerosol, gas, or vapor introduced into a test chamber so that its concentration inside and outside the respirator may be measured.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Maximum peak penetration method" means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(vi) "Average peak penetration method" means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(vii) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Aerosol generation, dilution, and measurement systems using corn oil or sodium chloride as test aerosols shall be used for quantitative fit testing.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate filter supplied by the same manufacturer.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(v) The combination of substitute air-purifying elements, challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent

inside the test chamber constant to within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event inside the test chamber and its being recorded.

(x) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(xiii) The limitations of instrument detection shall be taken into account when determining the fit factor.

(xiv) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

(d) Procedural requirements.

(i) When performing the initial positive or negative pressure test the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these tests.

(ii) An abbreviated screening isoamyl acetate test or irritant fume test may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. When performing a screening isoamyl acetate test, combination high-efficiency organic vapor cartridges/canisters shall be used.

(iii) A reasonable stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(iv) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half mask or one percent for a full facepiece respirator.

(v) A stable challenge concentration shall be obtained prior to the actual start of testing.

(vi) Respirator restraining straps shall not be overtightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonable comfortable fit typical of normal use.

(vii) The test shall be terminated whenever any single peak penetration exceeds five percent for half masks and one percent for full facepiece respirators. The test subject shall be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(viii) In order to successfully complete a QNFT, three successful fit tests are required. The results of each of the three independent fit tests must exceed the minimum fit factor needed for the class of respirator (e.g., half mask respirator, full facepiece respirator).

(ix) Calculation of fit factors.

(A) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration inside the respirator.

(B) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and of the end of the test.

(c) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(I) Average peak concentration;

(II) Maximum peak concentration;

(III) Integration by calculation of the area under the individual peak for each exercise. This includes computerized integration.

(x) Interpretation of test results. The fit factor established by the quantitative fit testing shall be the lowest of the three fit factor values calculated from the three required fit tests.

(xi) The test subject shall not be permitted to wear a half mask, or full facepiece respirator unless a minimum fit factor equivalent to at least ten times the hazardous exposure level is obtained.

(xii) Filters used for quantitative fit testing shall be replaced at least weekly, or whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily (when used) or sooner if there is any indication of breakthrough by a test agent.

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-62-07668 Appendix E-1-b—Saccharin solution aerosol protocol. (1) Respirator selection. Respirators shall be selected as described in WAC 296-62-07666(2) Appendix E-1-a (respirator selection), except that each respirator shall be equipped with a particulate filter.

(2) Taste threshold screening.

(a) An enclosure placed over the head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately 12 inches in diameter by 14 inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(b) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(c) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(d) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(e) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(f) The threshold check solution consists of 0.83 grams of sodium saccharin(=) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see subdivision (3)(g)) in 100 cc of water.

(g) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(h) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(i) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(j) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(k) The test conductor will take note of the number of squeezes required to elicit a taste response.

(l) If the saccharin is not tasted after 30 squeezes, subdivision (j), the saccharin fit test cannot be performed on the test subject.

(m) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(n) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(o) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(3) Fit test.

(a) The test subject may not eat, drink (except plain water), or chew gum for 15 minutes before the test.

(b) The test subject shall don and adjust the respirator without assistance from any person.

(c) The fit test uses the same enclosure described in subsection (2) of this section.

(d) Each test subject shall wear the respirator for at least 10 minutes before starting the fit test.

(i) This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of cooperation, and the purpose for the head exercises; or to demonstrate some of the exercises.

(ii) The test subject shall perform the conventional negative- or positive-pressure fit tests (see ANSI Z88.2 1980 A7).

(e) The test subject shall enter the enclosure while wearing the respirator selected in WAC 296-62-07666(2). This respirator shall be properly adjusted and equipped with a particulate filter.

(f) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(g) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(h) As before, the test subject shall breathe with mouth open and tongue extended.

(i) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See subdivisions (2)(h) through (j).)

(j) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(i) Breathe normally.

(ii) Breathe deeply. Be certain breaths are deep and regular.

(iii) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(iv) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(v) Talk. Talk aloud and slowly. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement.

Rainbow Passage: When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(vi) Jog in place.

(vii) Breathe normally.

(k) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in subdivision (i) of this subsection.

(l) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(m) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(n) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 10 times the PEL of MDA. In other words this protocol may not be used to assign protection factors higher than ten.

(o) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(p) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied air respirator, or self-contained breathing apparatus.

(q) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respiratory diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(r) Qualitative fit testing shall be repeated at least every 12 months.

(s) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of 20 pounds or more;

(ii) Significant facial scarring in the area of the facepiece seal;

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures;

- (iv) Reconstructive or cosmetic surgery; or
- (v) Any other condition that may interfere with face-piece sealing.

(4) Recordkeeping. A summary of all test results shall be maintained by the employer for 3 years. The summary shall include:

- (a) Name of test subject.
- (b) Date of testing.
- (c) Name of test conductor.
- (d) Respirators selected (indicate manufacturer, model, size, and approval number).
- (e) Testing agent.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07739 Appendix C—Qualitative and quantitative fit testing procedures—Mandatory. (1) Qualitative fit test protocols.

- (a) Isoamyl acetate protocol.

- (i) Odor threshold screening:

(A) Three one-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(B) Odor free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(C) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding one cc of pure IAA to eight hundred cc of odor free water in a one-liter jar and shaking for thirty seconds. This solution shall be prepared new at least weekly.

(D) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but shall not be connected to the same recirculating ventilation system.

(E) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into five hundred cc of odor free water using a clean dropper or pipette. Shake for thirty seconds and allow to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(F) A test blank is prepared in a third jar by adding five hundred cc of odor free water.

(G) The odor test and test blank jars shall be labelled one and two for jar identification. If the labels are put on the lids they can be periodically peeled, dried off and switched to maintain the integrity of the test.

(H) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., one and two): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(I) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(J) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test may not be used.

(K) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

- (ii) Respirator selection.

(A) The test subject shall be allowed to pick the most comfortable respirator from a selection including respirators of various sizes from different manufacturers. The selection shall include at least five sizes of elastomeric half facepieces, from at least two manufacturers.

(B) The selection process shall be conducted in a room separate from the fit-test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This instruction may not constitute the subject's formal training on respirator use, as it is only a review.

(C) The test subject should understand that the employee is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly and used properly will provide adequate protection.

(D) The test subject holds each facepiece up to the face and eliminates those which obviously do not give a comfortable fit. Normally, selection will begin with a half-mask and if a good fit cannot be found, the subject will be asked to test the full facepiece respirators. (A small percentage of users will not be able to wear any half-mask.)

(E) The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. All donning and adjustments of the facepiece shall be performed by the test subject without assistance from the test conductor or other person. Assistance in assessing comfort can be given by discussing the points in (a)(ii)(F) of this subsection. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

(F) Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

- (I) Positioning of mask on nose.

- (II) Room for eye protection.

- (III) Room to talk.

- (IV) Positioning mask on face and cheeks.

(G) The following criteria shall be used to help determine the adequacy of the respirator fit:

- (I) Chin properly placed.

- (II) Strap tension.

- (III) Fit across nose bridge.

- (IV) Distance from nose to chin.

- (V) Tendency to slip.

- (VI) Self-observation in mirror.

(H) The test subject shall conduct the conventional negative and positive-pressure fit checks before conducting the negative- or positive-pressure test the subject shall be

told to "seat" the mask by rapidly moving the head from side-to-side and up and down, while taking a few deep breaths.

(I) The test subject is now ready for fit testing.

(J) After passing the fit test, the test subject shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(K) The employee shall be given the opportunity to select a different facepiece and be retested if the chosen facepiece becomes increasingly uncomfortable at any time.

(iii) Fit test.

(A) The fit test chamber shall be similar to a clear fifty-five gallon drum liner suspended inverted over a two-foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(B) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(C) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(D) A copy of the following test exercises and "rainbow passage" shall be taped to the inside of the test chamber:

Test exercises.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Inhale on each side. Be certain movement is complete. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Inhale when head is in the full up position (looking toward ceiling). Be certain motions are complete and made about every second. Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(E) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(F) Upon entering the test chamber, the test subject shall be given a six-inch by five-inch piece of paper towel or other porous absorbent single ply material, folded in half and

wetted with three-quarters of one cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(G) Allow two minutes for the IAA test concentration to be reached before starting the fit-test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of cooperation, the purpose for the head exercises, or to demonstrate some of the exercises.

(H) Each exercise described in (D) of this subsection shall be performed for at least one minute.

(I) If at any time during the test, the subject detects the banana-like odor of IAA, the test has failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(J) If the test is failed, the subject shall return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and again begin the procedure described in (b)(iii)(D) through (H) of this subsection. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about five minutes before retesting. Odor sensitivity will usually have returned by this time.

(K) If a person cannot pass the fit test described above wearing a half-mask respirator from the available selection, full facepiece models must be used.

(L) When a respirator is found that passes the test, the subject breaks the face seal and takes a breath before exiting the chamber. This is to assure that the reason the test subject is not smelling the IAA is the good fit of the respirator facepiece seal and not olfactory fatigue.

(M) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag so there is no significant IAA concentration buildup in the test chamber during subsequent tests.

(N) At least two facepieces shall be selected for the IAA test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Persons who have successfully passed this fit test with a half-mask respirator may be assigned the use of the test respirator in atmospheres with up to 2 f/cc of airborne asbestos.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

- (I) Weight change of twenty pounds or more,
- (II) Significant facial scarring in the area of the face-piece seal,
- (III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,
- (IV) Reconstructive or cosmetic surgery, or
- (V) Any other condition that may interfere with face-piece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

- (A) Name of test subject.
- (B) Date of testing.
- (C) Name of the test conductor.
- (D) Respirators selected (indicate manufacturer, model, size and approval number).
- (E) Testing agent.
- (b) Saccharin solution aerosol protocol.
- (i) Respirator selection. Respirators shall be selected as described in (a)(ii) of this subsection (respirator selection), except that each respirator shall be equipped with a particulate filter.

(ii) Taste threshold screening.

(A) An enclosure about head and shoulders shall be used for threshold screening (to determine if the individual can taste saccharin) and for fit testing. The enclosure shall be approximately twelve inches in diameter by fourteen inches tall with at least the front clear to allow free movement of the head when a respirator is worn.

(B) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(C) The entire screening and testing procedure shall be explained to the test subject prior to conducting the screening test.

(D) During the threshold screening test, the test subject shall don the test enclosure and breathe with open mouth with tongue extended.

(E) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(F) The threshold check solution consists of 0.83 grams of sodium saccharin(±) USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see (b)(iii)(G) of this subsection) in one hundred cc of water.

(G) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(H) Ten squeezes of the nebulizer bulb are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(I) If the first response is negative, ten more squeezes of the nebulizer bulb are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(J) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin can be tasted.

(K) The test conductor will take note of the number of squeezes required to elicit a taste response.

(L) If the saccharin is not tasted after thirty squeezes ((b)(ii)(J) of this subsection), the saccharin fit test cannot be performed on the test subject.

(M) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(N) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(O) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least every four hours.

(iii) Fit test.

(A) The test subject shall don and adjust the respirator without the assistance from any person.

(B) The fit test uses the same enclosure described in (b)(ii) of this subsection.

(C) Each test subject shall wear the respirator for at least ten minutes before starting the fit test.

(D) The test subject shall don the enclosure while wearing the respirator selected in (a)(ii) of this subsection. This respirator shall be properly adjusted and equipped with a particulate filter.

(E) The test subject may not eat, drink, (except plain water), or chew gum for fifteen minutes before the test.

(F) A second DeVilbiss Model 40 Inhalation Medication Nebulizer is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(G) The fit test solution is prepared by adding eighty-three grams of sodium saccharin to one hundred cc of warm water.

(H) As before, the test subject shall breathe with mouth open and tongue extended.

(I) The (~~nebulizer~~) nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (b)(ii)(H) through (J) of this subsection.)

(J) After generation of the aerosol read the following instructions to the test subject. The test subject shall perform the exercises for one minute each.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete. Inhale when head is in the full up position (when looking toward the ceiling). Do not bump the respirator on the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

(VI) Jogging in place.

(VII) Breathe normally.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division

of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(K) At the beginning of each exercise, the aerosol concentration shall be replenished using one-half the number of squeezes as initially described in (b)(iii)(I) of this subsection.

(L) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(M) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(N) At least two facepieces shall be selected by the saccharin test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(O) Successful completion of the test protocol shall allow the use of the half mask tested respirator in contaminated atmospheres up to 2 f/cc of asbestos. In other words this protocol may be used to assign protection factors no higher than ten.

(P) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(Q) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(R) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(S) Qualitative fit testing shall be repeated at least every six months.

(T) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iv) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(c) Irritant fume protocol.

(i) Respirator selection.

Respirators shall be selected as described in (a)(ii) of this subsection, except that each respirator shall be equipped with a high-efficiency cartridge.

(ii) Fit test.

(A) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize the subject with the characteristic odor.

(B) The test subject shall properly don the respirator selected as above, and wear it for at least ten minutes before starting the fit test.

(C) The test conductor shall review this protocol with the test subject before testing.

(D) The test subject shall perform the conventional positive pressure and negative pressure fit checks (see ANSI Z88.2 1980). Failure of either check shall be cause to select an alternate respirator.

(E) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part #5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver two hundred milliliters per minute.

(F) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep the eyes closed while the test is performed.

(G) The test conductor shall direct the stream of irritant smoke from the tube towards the face seal area of the test subject. The person conducting the test shall begin with the tube at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(H) The test subject shall be instructed to do the following exercises while the respirator is being challenged by the smoke. Each exercise shall be performed for one minute.

(I) Breathe normally.

(II) Breathe deeply. Be certain breaths are deep and regular.

(III) Turn head all the way from one side to the other. Be certain movement is complete. Inhale on each side. Do not bump the respirator against the shoulders.

(IV) Nod head up and down. Be certain motions are complete and made every second. Inhale when head is in the full up position (looking toward ceiling). Do not bump the respirator against the chest.

(V) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the "rainbow passage." Repeating it after the test conductor (keeping eyes closed) will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(VI) Jogging in place.

(VII) Breathe normally.

(I) The test subject shall indicate to the test conductor if the irritant smoke is detected. If smoke is detected, the test conductor shall stop the test. In this case, the tested respirator is rejected and another respirator shall be selected.

(J) Each test subject passing the smoke test (i.e., without detecting the smoke) shall be given a sensitivity check of smoke from the same tube to determine if the test subject reacts to the smoke. Failure to evoke a response shall void the fit test.

(K) This fit test protocol, (c)(ii)(D), (I), and (J) of this subsection, shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agents.

(L) At least two facepieces shall be selected by the irritant fume test protocol. The test subject shall be given the opportunity to wear them for one week to choose the one which is more comfortable to wear.

(M) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to 2 f/cc of asbestos.

(N) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(O) If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(P) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(Q) Qualitative fit testing shall be repeated at least every six months.

(R) In addition, because the sealing of the respirator may be affected, qualitative fit testing shall be repeated immediately when the test subject has a:

(I) Weight change of twenty pounds or more,

(II) Significant facial scarring in the area of the facepiece seal,

(III) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(IV) Reconstructive or cosmetic surgery, or

(V) Any other condition that may interfere with facepiece sealing.

(iii) Recordkeeping.

A summary of all test results shall be maintained in each office for three years. The summary shall include:

(A) Name of test subject.

(B) Date of testing.

(C) Name of test conductor.

(D) Respirators selected (indicate manufacturer, model, size and approval number).

(E) Testing agent.

(2) Quantitative fit test procedures.

(a) General.

(i) The method applies to the negative-pressure nonpowered air-purifying respirators only.

(ii) The employer shall assign one individual who shall assume the full responsibility for implementing the respirator quantitative fit test program.

(b) Definition.

(i) "Quantitative fit test" means the measurement of the effectiveness of a respirator seal in excluding the ambient atmosphere. The test is performed by dividing the measured concentration of challenge agent in a test chamber by the measured concentration of the challenge agent inside the respirator facepiece when the normal air-purifying element has been replaced by an essentially perfect purifying element.

(ii) "Challenge agent" means the air contaminant introduced into a test chamber so that its concentration inside and outside the respirator may be compared.

(iii) "Test subject" means the person wearing the respirator for quantitative fit testing.

(iv) "Normal standing position" means standing erect and straight with arms down along the sides and looking straight ahead.

(v) "Fit factor" means the ratio of challenge agent concentration outside with respect to the inside of a respirator inlet covering (facepiece or enclosure).

(c) Apparatus.

(i) Instrumentation. Corn oil, sodium chloride or other appropriate aerosol generation, dilution, and measurement systems shall be used for quantitative fit test.

(ii) Test chamber. The test chamber shall be large enough to permit all test subjects to freely perform all required exercises without distributing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air yet uniform in concentration throughout the chamber.

(iii) When testing air-purifying respirators, the respirator shall be equipped with a cartridge or canister approved for removal of the test agent, or with a high efficiency particulate filter. Only approved assemblies shall be tested.

(iv) The sampling instrument shall be selected so that a strip chart record may be made of the test showing the rise and fall of challenge agent concentration with each inspiration and expiration at fit factors of at least two thousand.

(v) The combination of substitute air-purifying elements (if any), challenge agent, and challenge agent concentration in the test chamber shall be such that the test subject is not exposed in excess of PEL to the challenge agent at any time during the testing process.

(vi) The sampling port on the test specimen respirator shall be placed and constructed so that there is no detectable leak around the port, a free air flow is allowed into the sampling line at all times and so there is no interference with the fit or performance of the respirator.

(vii) The test chamber and test set-up shall permit the person administering the test to observe one test subject inside the chamber during the test.

(viii) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant within a ten percent variation for the duration of the test.

(ix) The time lag (interval between an event and its being recorded on the strip chart) of the instrumentation may not exceed two seconds.

(x) The tubing for the test chamber atmosphere and for the respirator sampling port shall be the same diameter, length and material. It shall be kept as short as possible. The smallest diameter tubing recommended by the manufacturer shall be used.

(xi) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release to the room.

(xii) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed fifty percent.

(d) Procedural requirements.

(i) The fitting of half-mask respirators should be started with those having multiple sizes and a variety of interchangeable cartridges and canisters such as the MSA Comfo II-M, North M, Survivair M, A-O M, or Scott-M. Use either of the tests outlined below to assure that the facepiece is properly adjusted.

(A) Positive pressure test. With the exhaust port(s) blocked, the negative pressure of slight inhalation should remain constant for several seconds.

(B) Negative pressure test. With the intake port(s) blocked, the negative pressure slight inhalation should remain constant for several seconds.

(ii) After a facepiece is adjusted, the test subject shall wear the facepiece for at least five minutes before conducting a qualitative test by using either of the methods described below and using the exercise regime described in (e)(i) through (v) of this subsection.

(A) Isoamyl acetate test. When using organic vapor cartridges, the test subject who can smell the odor should be unable to detect the odor of isoamyl acetate squirted into the air near the most vulnerable portions of the facepiece seal. In a location which is separated from the test area, the test subject shall be instructed to close her/his eyes during the test period. A combination cartridge or canister with organic vapor and high-efficiency filters shall be used when available for the particular mask being tested. The test subject shall be given an opportunity to smell the odor of isoamyl acetate before the test is conducted.

(B) Irritant fume test. When using high-efficiency filters, the test subject should be unable to detect the odor of irritant fume (stannic chloride or titanium tetrachloride ventilation smoke tubes) squirted into the air near the most vulnerable portions of the facepiece seal. The test subject shall be instructed to close her/his eyes during the test period.

(iii) The test subject may enter the quantitative testing chamber only if she or he has obtained a satisfactory fit as stated in (d)(ii) of this subsection.

(iv) Before the subject enters the test chamber, a reasonably stable challenge agent concentration shall be measured in the test chamber.

(v) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed five percent for a half-mask and one percent for a full facepiece.

(vi) A stable challenge agent concentration shall be obtained prior to the actual start of testing.

(A) Respirator restraining straps may not be overtightened for testing. The straps shall be adjusted by the wearer to give a reasonably comfortable fit typical of normal use.

(e) Exercise regime. Prior to entering the test chamber, the test subject shall be given complete instructions as to her/his part in the test procedures. The test subject shall perform the following exercises, in the order given, for each independent test.

(i) Normal breathing (NB). In the normal standing position, without talking, the subject shall breathe normally for at least one minute.

(ii) Deep breathing (DB). In the normal standing position the subject shall do deep breathing for at least one minute pausing so as not to hyperventilate.

(iii) Turning head side to side (SS). Standing in place the subject shall slowly turn his/her head from side between the extreme positions to each side. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(iv) Moving head up and down (UD). Standing in place, the subject shall slowly move his/her head up and down between the extreme position straight up and the extreme position straight down. The head shall be held at each extreme position for at least five seconds. Perform for at least three complete cycles.

(v) Reading (R). The test subject (keeping eyes closed) shall repeat after the test conductor the "rainbow passage" at the end of this section. The subject shall talk slowly and aloud so as to be heard clearly by the test conductor or monitor. The test subject shall read the "rainbow passage" at the end of this section.

(vi) Grimace (G). The test subject shall grimace, smile, frown, and generally contort the face using the facial muscles. Continue for at least fifteen seconds.

(vii) Bend over and touch toes (B). The test subject shall bend at the waist and touch toes and return to upright position. Repeat for at least thirty seconds.

(viii) Jogging in place (J). The test subject shall perform jog in place for at least thirty seconds.

(ix) Normal breathing (NB). Same as exercise (e)(i) of this subsection.

"Rainbow Passage."

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) The test shall be terminated whenever any single peak penetration exceeds five percent for half-masks and one percent for full facepieces. The test subject may be refitted and retested. If two of the three required tests are terminated, the fit shall be deemed inadequate.

(g) Calculation of fit factors.

(i) The fit factor is determined by dividing the average challenge agent concentration in the test chamber by the average challenge agent concentration inside the respirator facepiece for the test exercise.

(ii) The average test chamber concentration is the arithmetic average of the test chamber concentration at the beginning and at the end of the test.

(iii) The average peak concentration of the challenge agent inside the respirator shall be the arithmetic average peak concentrations for each of the nine exercises of the test which are computed as the arithmetic average of the peak concentrations found for each breath during the exercise.

(iv) The average peak concentration for an exercise may be determined graphically if there is not a great variation in the peak concentrations during a single exercise.

(h) Interpretation of test results. The fit factor measured by the quantitative fit testing shall be the lowest of the three fit factors resulting from three independent tests.

(i) Other requirements.

(i) The test subject shall not be permitted to wear a half-mask or full facepiece mask if the minimum fit factor of one hundred or one thousand, respectively, cannot be obtained. If hair growth or apparel interfere with a satisfactory fit, then they shall be altered or removed so as to eliminate interference and allow a satisfactory fit. If a satisfactory fit is still not attained, the test subject must use a positive-pressure respirator such as powered air-purifying respirators, supplied-air respirator, or self-contained breathing apparatus.

(ii) The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface.

(iii) If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician trained in respirator diseases or pulmonary medicine to determine whether the test subject can wear a respirator while performing her or his duties.

(iv) The test subject shall be given the opportunity to wear the assigned respirator for one week. If the respirator does not provide a satisfactory fit during actual use, the test subject may request another QNFT which shall be performed immediately.

(v) A respirator fit factor card shall be issued to the test subject with the following information:

(A) Name.

(B) Date of fit test.

(C) Fit factor obtained for each manufacturer, model and approval number of respirator tested.

(D) Name and signature of the person that conducted the test.

(vi) Filters used for qualitative or quantitative fit testing shall be replaced weekly, whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced daily or sooner if there is any indication of breakthrough by the test agent.

(j) In addition, because the sealing of the respirator may be affected, quantitative fit testing shall be repeated immediately when the test subject has a:

(i) Weight change of twenty pounds or more,

(ii) Significant facial scarring in the area of the facepiece seal,

(iii) Significant dental changes; i.e., multiple extractions without prosthesis, or acquiring dentures,

(iv) Reconstructive or cosmetic surgery, or

(v) Any other condition that may interfere with facepiece sealing.

(k) Recordkeeping.

A summary of all test results shall be maintained for three years. The summary shall include:

(i) Name of test subject.

(ii) Date of testing.

(iii) Name of the test conductor.

(iv) Fit factors obtained from every respirator tested (indicate manufacturer, model, size and approval number).

WSR 96-09-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3963—Filed April 10, 1996, 1:26 p.m.]

Date of Adoption: April 10, 1996.

Purpose: Increase the monthly needs allowance, the one-person MNIL, the spousal resource transfer maximum and the federal poverty levels.

Citation of Existing Rules Affected by this Order: Amending WAC 388-507-0710 AFDC-related medical income standards, 388-513-1350 Institutional—Available resources, and 388-513-1380 Institutional—Participation.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Title XIX State Agency Letter 95-44.

Adopted under notice filed as WSR 96-06-010 on February 23, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-513-1380(4) adds the words . . . "up to a maximum of the one-person MNIL" subsection (4)(c) adds "(MNIL)" subsection (4)(d) revised to "The total amount deducted under subsection (4)(a), (b), and (c) of this section shall not exceed the one-person MNIL." Subsection (4)(e)(i) revised to one thousand two hundred ninety-five dollars. Subsection (4)(f)(i) revised to one thousand two hundred ninety-five dollars. Subsection (4)(i)(i) revised to "up to one hundred percent of the one-person federal poverty level." Subsection (5)(b) changed to three hundred eighty-nine dollars.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 3, 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 3, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 10, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

PERMANENT

AMENDATORY SECTION (Amending Order 3832, filed 2/8/95, effective 3/11/95)

WAC 388-507-0710 AFDC-related medical income standards. (1) The department shall determine income standards for AFDC-related clients as described under WAC 388-505-0590 (2) and (4).

(2) Effective January 1, (~~1995~~) 1996, the department shall set the medically needy income level (MNIL) at:

(a) One person	\$ (486) <u>496</u>
(b) Two persons	\$ 592
(c) Three persons	\$ 667
(d) Four persons	\$ 742
(e) Five persons	\$ 858
(f) Six persons	\$ 975
(g) Seven persons	\$1,125
(h) Eight persons	\$1,242
(i) Nine persons	\$1,358
(j) Ten persons and above	\$1,483

AMENDATORY SECTION (Amending Order 3832, filed 2/8/95, effective 3/11/95)

WAC 388-513-1350 Institutional—Available resources. (1) Resources are defined under chapter 388-511 WAC for an SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, 388-513-1330, 388-513-1340, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365.

(3) The department shall determine ownership of resources following Washington state community property principles for a person:

(a) Whose most recent period of institutionalization began on or before September 30, 1989; and

(b) Who remains continuously institutionalized.

(4) For purposes of Medicaid eligibility, the department shall consider resources are:

(a) Community resources when jointly held in the:

(i) Names of both the institutionalized and community spouse; or

(ii) Name of the institutionalized spouse only.

(b) The separate property of the community spouse when:

(i) Held in the separate name of the community spouse; or

(ii) Transferred between spouses as described under WAC 388-513-1370(6).

(5) The department shall:

(a) Divide by two, the total value of the community resources the spouses own; and

(b) Assign one-half of the total value of the community resources to each spouse.

(6) The department shall not consider a person continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive home-based or community-based waived services.

(7) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institu-

tionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources as described under WAC 388-511-1160; except, the department shall exempt one vehicle without regard to use or value when the institutionalized person has a community spouse;

(b) Consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) (~~Seventy-four~~) Seventy-six thousand (~~eight~~) seven hundred (~~twenty~~) forty dollars effective January 1, (~~1995~~) 1996;

(ii) An amount established by a fair hearing under chapter 388-08 WAC when the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to the community spouse or to another person for the sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) As soon as practicable thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse.

(d) Consider resources greater than such resources described under subsection (7)(b) of this section available to the institutional spouse.

(8) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse:

(i) The month after the institutionalized spouse is determined eligible for institutional benefits; and

(ii) While the institutionalized spouse remains in a continuous period of institutionalization.

(b) Available to the institutionalized spouse when the institutionalized spouse:

(i) Acquires resources which, when added to resources held by the institutionalized spouse, exceed the one-person resource maximum, if the most recent period of institutionalization began on or after October 1, 1989; or

(ii) Has a break of thirty days or more in a period of institutionalization.

AMENDATORY SECTION (Amending Order 3848, filed 5/10/95, effective 6/10/95)

WAC 388-513-1380 Institutional—Participation. (1) In reducing payment to the institution, the department shall consider the institutionalized client's:

(a) Income under WAC 388-513-1330 (3)(a), (b), (c), and (d); and

(b) Resources under WAC 388-513-1350, 388-513-1360, and 388-513-1365.

(2) In reducing payment to the institution, the department shall consider the eligible institutionalized client's excess resources available to meet the cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) Federal, state, or local income taxes:

(i) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client;

(ii) Not covered by withholding, but are owed or have been paid by the client; and

(iii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level (MNIL) less the client's personal needs allowance for a client who:

(i) Is SSI-related; and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) ~~((An amount an SSI or AFDC client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance))~~ The total amounts deducted under subsection (4)(a), (b), and (c) of this section shall not exceed the one-person MNIL.

(e) A monthly needs allowance for the community spouse not to exceed, effective January 1, 1996, one thousand ~~((eight))~~ nine hundred ~~((seventy-one))~~ nineteen dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total community spouse's income of one thousand two hundred ~~((fifty-eight))~~ ninety-five dollars; ~~((and))~~

(ii) Excess shelter expenses as specified under subsection (5) of this section; and

(iii) Allowed only to the extent income of the institutionalized spouse is made available to the community spouse.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand two hundred ~~((fifty-four))~~ ninety-five dollars exceeds the family

member's income. Child support received from an absent parent is the child's income.

(ii) "Family member" means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents.

(h) Amounts for incurred medical expenses not subject to third-party payment which are the current liability of the client including, but not limited to:

(i) Health insurance premiums, coinsurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred ~~((eighty dollars))~~ percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social service staff ~~((shall))~~ documents initial need for the income exemption and reviews the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall:

(a) Determine shelter expenses to be the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Consider the standard shelter allocation to be three hundred ~~((seventy-seven))~~ eighty-nine dollars, effective April 1, ~~((1995))~~ 1996.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

(6) The department shall determine the amount the institutional spouse allocates to the community spouse may only be greater than the amount in subsection (4)~~((d))~~(e)(i) of this section when:

(a) A court enters an order against the institutionalized client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified in subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8) SSI-related clients.

(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from repatriation payments made by the Federal Republic of Germany when computing the client's participation amount.

WSR 96-09-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3962—Filed April 10, 1996, 1:25 p.m.]

Date of Adoption: April 10, 1996.

Purpose: Increase amount of discharge funds to enable clients to start or resume independent living. Expand use of discharge allowance to include all AASA-funded residential settings.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-145 Residential care discharge allowance.

Statutory Authority for Adoption: RCW 74.42.450.

Other Authority: RCW 74.08.090.

Adopted under notice filed as WSR 96-06-014 on February 26, 1996.

Changes Other than Editing from Proposed to Adopted Version: None, intent unchanged.

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 1, 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.

April 10, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 2367, filed 5/1/86)

WAC 388-15-145 (~~Nursing home~~) **Residential care discharge allowance.** (1) A one-time allowance may be issued to state and federally funded medical (~~care~~) assistance program eligible (~~nursing home residents who are ready for discharge~~) persons meeting the requirements of subsection (3) of this section and residing in:

(a) A Medicaid-certified nursing facility;

(b) A hospital;

(c) An adult residential care;

(d) Enhanced adult residential care;

(e) Assisted living; or

(f) Adult family home settings.

~~((1))~~ (2) The allowance must be used to ~~((obtain or reestablish independent housing and to))~~:

(a) Start or resume (~~housekeeping~~) residence in the person's own home; or

(b) Purchase necessary equipment or make modifications to the person's home unless otherwise covered by state or federally funded medical programs.

~~((2))~~ (3) Persons eligible for the discharge allowance must~~(=~~

~~((a))~~ be receiving aging and adult services administration funded services and have no existing independent residence or have a residence which cannot be reestablished without monetary assistance~~(=~~

~~((b) Not have a spouse or dependents living in an independent residence to which the person could return, and~~

~~((c) Have no more than six hundred dollars in cash or other liquid resources which could be converted at face value to cash within thirty days)).~~

~~((3))~~ (4) The discharge allowance (~~issued~~) is based on the actual amount required to establish or reestablish an independent residence (~~for the individual with a maximum of four~~) and shall not exceed eight hundred dollars.

WSR 96-09-036
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3964—Filed April 10, 1996, 1:29 p.m.]

Date of Adoption: April 10, 1996.

Purpose: Clarifies existing rules on hearings, provides for temporary support orders, allows full participation by custodial parents, and expands the ability of parties to vacate default orders.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-11-010, 388-11-030, 388-11-032, 388-11-035, 388-11-040, 388-11-055 and 388-11-060; amending WAC 388-11-011, 388-11-015, 388-11-045, 388-11-048, 388-11-065, 388-11-120, 388-11-140, 388-11-150, 388-11-210, 388-11-215 and 388-11-220; and new WAC 388-11-280, 388-11-285, 388-11-290, 388-11-295, 388-11-300, 388-11-305, 388-11-310, 388-11-315, 388-11-400, 388-11-405, 388-11-410, 388-11-415, 388-11-420, 388-11-425, and 388-11-430.

Statutory Authority for Adoption: RCW 74.20A.055, 74.08.090.

Adopted under notice filed as WSR 96-06-039 on March 1, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 15, amended 12, repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 15, amended 12, repealed 7.

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.

April 10, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-11-011 Definitions. For purposes of this chapter and chapters 388-13 and 388-14 WAC, the following definitions shall apply:

(1) "Accrued debt" means a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including birth costs, of a dependent child owed by a person having signed an affidavit acknowledging paternity which has been filed with the state (~~(office of vital)~~) center for health statistics.

(2) "Administrative order" means a determination, finding, decree, or order for support issued under RCW 74.20A.055 or 74.20A.056 or by another state's agency under (~~(a substantially similar)~~) an administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support money to satisfy current support or a support debt. Administrative orders include:

(a) An agreed settlement or consent order entered under WAC 388-11-150; or

(b) A notice and finding of financial responsibility (~~(or)~~), a notice and finding of parental responsibility, or a notice and finding of medical responsibility that has become final by operation of law.

(3) "Agency" means the division of child support, department of social and health services. "Office of support enforcement," "office," and "OSE" also mean the division of child support.

(4) "Agreed settlement" means the informal disposition of a contested case by written agreement between (~~(a responsible parent)~~) one or both parents and (~~(OSE)~~) the agency establishing or modifying a support obligation and ordering payment or establishing a health insurance coverage obligation. The agreement shall be effective without the presiding officer's approval.

~~((4))~~ (5) "Arrears," "delinquency," and "past support" mean(~~(s)~~) the amount owed for a period of time before the instant month.

~~((5))~~ (6) "Birth costs" mean the reasonable and necessary costs associated with the birth of a child, including costs of the mother's pregnancy and confinement.

~~((6))~~ (7) "Consent order" means the disposition of a contested case by written agreed order, approved by the presiding officer, between ((a responsible parent)) one or both parents and ((OSE)) the agency establishing a support obligation and ordering payment. (~~(The agreed order shall require the presiding officer's approval.)~~)

~~((7))~~ (8) "Current support" or "current and future support" means support money paid to satisfy the support obligation for the present month as opposed to satisfaction of a support debt. Current and future support also means the prospective obligation to make monthly support payments.

~~((8))~~ (9) "Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date (~~(payment of)~~) an (~~(AFDC R, AFDC E, AFDC FC, a state only)~~) aid to families with dependent children, or foster care((, or a family independence)) program grant is (~~(authorized)~~) effective. For purposes of this chapter, the state (~~(shall continue to be)~~) remains responsible for the support of a dependent child until public assistance (~~(or family independence program payments)~~) terminates, or support enforcement services terminate, whichever occurs later.

~~((9))~~ (10) "Department" means the Washington state department of social and health services.

~~((10))~~ (11) "Dependent child" means a person:

(a) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(b) Eighteen years of age or older for whom a court order requires support payments past eighteen years of age (~~(or older)~~); or

(c) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is:

(i) A full-time student; and

(ii) Reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the end of the month in which the child becomes nineteen years of age.

~~((11))~~ (12) "Fraud" means, for the purposes of WAC (~~(388-11-115)~~) 388-11-120:

(a) The representation of the existence or nonexistence of a fact;

(b) The representation's materiality;

(c) The representation's falsity;

(d) The speaker's knowledge of the falsity;

(e) The speaker's intent that the representation should be acted on by the person to whom it is made;

(f) Ignorance of the falsity on the part of the person to whom it is made;

(g) The latter's:

(i) Reliance on the truth of the representation;

(ii) Right to rely upon it; and

(iii) Subsequent damage.

~~((12))~~ "Good cause for failure to make a timely request for an adjudicative proceeding") (13) "Good cause" for the

purposes of late hearing requests under WAC 388-11-310 and petitions to vacate orders on default under WAC 388-11-120 means there is substantial reason or legal justification for delay, including but not limited to a showing of those grounds enumerated in civil rule 60. The time periods set forth in civil rule 60 apply to determinations of good cause under this definition.

~~((13))~~ (14) "Health care costs," for the purpose of:

(a) Establishing support obligations under RCW 74.20A.055 and 74.20A.056, means medical, dental, and optometrical costs and expenses; and

(b) Enforcement action under Titles 26.23, 74.20, and 74.20A RCW, including a notice of support owed and a notice of support debt, means medical, dental, optometrical costs stated as a fixed dollar amount by a support order.

~~((14))~~ (15) "Hearing" means an adjudicative proceeding authorized by this chapter, chapter 388-13 or 388-14 WAC, or chapter 26.23, 74.20 or 74.20A RCW and conducted under chapters 388-08 WAC and 34.05 RCW. A conference board under WAC 388-14-385 is not a hearing or an adjudicative proceeding.

(16) "Locate" means service of ~~((the))~~ a notice and finding of financial, parental, or medical responsibility ~~((or the notice and finding of parental responsibility))~~ in a manner prescribed by WAC ~~((388-11-040))~~ 388-11-285, 388-11-290 or 388-11-295.

~~((15))~~ (17) "Medical support" means health care costs stated as a fixed dollar amount in a support order and health insurance coverage for a dependent child's benefit.

~~((16))~~ (18) "Other ordinary expense" means an expense incurred by a responsible parent:

(a) Directly benefiting a dependent child; and

(b) Relating to the parent's residential time or visitation with a child.

~~((17))~~ (19) "Paternity testing" means blood testing or genetic tests of blood, tissues, or bodily fluids.

(20) "Reasonable efforts to locate" means any of the following actions taken by the ~~((office of support enforcement (OSE)))~~ agency:

(a) Mailing the notice and finding of financial responsibility ~~((or))~~, the notice and finding of parental responsibility, or the notice and finding of medical responsibility, by certified mail, return receipt requested, to the responsible parent;

(b) Referral to a sheriff, other server of process or locate service, or department employee for locate activities;

(c) Tracing activity as follows:

(i) Checking local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers, or the postal authorities;

(ii) Contacting state agencies, union~~((s))~~ or financial, or fraternal organizations;

(iii) Periodic searches for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record keeping agencies or entities;

(iv) Case maintenance in ~~((OSE's))~~ the agency's automated locate program.

(d) Referral to state or federal parent locator service;

(e) Referral to the attorney general, a prosecuting attorney, the IV-D agency of another state, or the Internal Revenue Service for specific legal or collection action; ~~((or))~~

(f) Attempts to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(g) Other actions reasonably calculated to produce information regarding the responsible parent's whereabouts.

~~((18))~~ (21) "Residential parent" means a parent with whom a child resides a majority of the time ~~((, or who is designated as or deemed to be the child's custodian under RCW 26.09.285))~~.

~~((19))~~ (22) "Responsible parent" means the natural parent, adoptive parent, responsible stepparent, or a person having signed an affidavit acknowledging paternity which has been filed with the state ~~((office of vital))~~ center for health statistics, from whom the department seeks support for a dependent child.

~~((20))~~ (23) "Responsible stepparent" means a stepparent having established an in loco parentis relationship with the dependent child or children.

(a) The status shall continue until the relationship is terminated by death, dissolution of marriage, or by superior court order as provided under RCW 26.16.205.

(b) A rebuttable presumption of an in loco parentis relationship is created when the stepparent~~((s))~~:

(i) Lives with the child and the parent; or

(ii) Provides care, support, or guidance for the child.

~~((21))~~ (24) "Secretary" means the secretary of the department of social and health services or the secretary's designee.

~~((22))~~ (25) "State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, a federally recognized Indian tribe, or a foreign country.

~~((23))~~ (26) "Superior court order" means a judgment, decree, or order of a Washington state superior court or another state's court of comparable jurisdiction:

(a) Establishing a support obligation and ordering payment thereon of a set or determinable amount; or

(b) Specifically relieving a responsible parent of a support obligation.

~~((24))~~ (27) "Support debt" means:

(a) A delinquent amount of support money due, owing, and unpaid under a superior court order or an administrative order;

(b) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance, including health care costs as defined in this section, birth costs, child care, special child rearing expenses, and an accrued debt under RCW 74.20A.056, of a dependent child or other person for whom a support obligation is owed;

(c) A debt under RCW 74.20A.100 or 74.20A.270; or

(d) Accrued interest, fees, or penalties charged on a support debt, and attorneys' fees and other costs of litigation awarded in an action under Title IV-D of the Social Security Act establishing and enforcing a support obligation or support debt.

~~((25))~~ (28) "Support establishment notice" means a notice and finding of financial responsibility under WAC 388-11-285, a notice and finding of parental responsibility under WAC 388-11-290, or a notice and finding of medical responsibility under WAC 388-11-295.

(29) "Support money" means money paid to satisfy a support obligation whether named child support, spousal support, alimony, maintenance, medical support, birth costs,

or other money intended to satisfy a support obligation for a person or satisfy wholly or partly a support debt.

~~((26))~~ (30) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance of a dependent child or other person as required by law, including health insurance coverage, health care costs as defined in this section, birth costs, and child care and special child rearing expenses ~~((of a dependent child or other person as required by law))~~.

(31) "Tribunal" means a state court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

AMENDATORY SECTION (Amending Order 3622, filed 8/16/93, effective 9/16/93)

WAC 388-11-015 Credits allowed—Debt satisfaction.

(1) After the responsible parent has been advised of the obligation to make payments to the Washington state support registry (WSSR) by service of a ~~((notice under WAC 388-11-030, 388-11-032, 388-14-415, or 388-14-435))~~ support establishment notice, or by entry of a support order requiring payments to WSSR, the responsible parent may ~~((only))~~ obtain credit against the parent's support obligation only:

(a) By cash, check, electronic funds transfer, or money order payments through WSSR or payment of health insurance premiums; or

(b) As provided under subsections (3) and (6) of this section.

(2) ~~((OSE))~~ The agency shall ~~((only))~~ allow credit against a responsible parent's support debt for family needs provided directly to a ~~((caretaker/custodian))~~ physical custodian, a child, or provided through a vendor or third party only when the:

(a) Items are provided before service of the notice on a responsible parent;

(b) Responsible parent proves the items provided were intended to satisfy the responsible parent's support obligation; and

(c) Items are food, clothing, shelter, or medical attendance directly related to the care, support, and maintenance of a child.

(3) After service of the notice, a parent may ~~((only))~~ obtain credit against the parent's current support obligation only when the responsible parent proves that the payments were made and:

(a) The ~~((department))~~ agency determines there:

(i) Is no prejudice to:

(A) A ~~((custodial parent))~~ physical custodian, a child, or other person; or

(B) An agency entitled to receive the support payments.

(ii) Are special circumstances of an equitable nature justifying credit for payments; or

(b) A court of competent jurisdiction determines credit should be granted after a hearing where all interested parties were given an opportunity to be heard.

(4) The ~~((department))~~ agency shall not allow credit for shelter payments made before service of the notice in an amount more than the greater of the:

(a) Shelter allocation in the public assistance standards for the period when payments were made; or

(b) One-half of the actual shelter payment.

(5) The ~~((department))~~ agency shall not allow credit for shelter payments made after service of the notice.

(6) ~~((Effective with benefits paid on or after July 1, 1990, the department shall give credit for disability benefits paid on behalf of the responsible parent's child as a result of the responsible parent's injury or illness, by:~~

(a) Labor and industries or a self-insurer under chapter 51.32 RCW; or

(b) The Social Security Administration.

(7) The department shall credit disability payments under subsection (6) of this section:

(a) First against the current support obligation for the month in which the benefit is paid for the dependant child to whom the benefit was paid; and

(b) Second to the responsible parent's support debt for the child and physical custodian to whom the benefit was paid. In crediting the benefit amount against the support debt, the department shall credit:

(i) First against any support debt owned to the non-assistance support enforcement services recipient to whom the benefit was paid; and

(ii) Any remaining benefit amount against the responsible parent's support debt to the department for the dependent child and/or physical custodian to whom the benefit was paid.

(8) A responsible parent must prove payment of these benefits and has no right to:

(a) Reimbursement because of a credit allowed under this subsection;

(b) Credit for benefits actually paid prior to July 1, 1990.

(9) The department shall mail a notice of credit to the custodial parent if the department agrees to credit the responsible parent for disability benefits under this section unless the agreement to credit occurred during a negotiation or an adjudicative proceeding in which the custodial parent was present and a party. The department shall:

(a) Include in the notice the amount of the credit; and

(b) Advise the custodial parent that:

(i) The parent may request an adjudicative proceeding to contest the credit by filing a written application for an adjudicative proceeding with the office of support enforcement within twenty three days of the date of mailing of the notice; and

(ii) If the custodial parent files an application for an adjudicative proceeding, the department shall give the responsible parent notice of and an opportunity to participate in the proceeding.) The agency shall apply credits for dependent benefits allowed under RCW 26.19.190 as required by WAC 388-11-280.

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-11-045 Service requirements—Tolling.

(1) For support obligations owed for months on or after September 1, 1979, the ~~((department))~~ agency shall exercise reasonable efforts to locate the responsible parent. The ~~((department))~~ agency shall serve a notice and finding of financial or parental responsibility within sixty days of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If

service is not timely, the ~~((department))~~ agency shall lose the right to reimbursement of public assistance payments made after the sixtieth day and before the notice is served. However, the ~~((department))~~ agency shall not lose the right to reimbursement of public assistance payments for any period of time:

(a) During which ~~((#))~~ the agency exercised reasonable efforts to locate the responsible parent; or

(b) For sixty days after the date on which the ~~((center for health statistics))~~ agency received an acknowledgement of paternity for the child for whom the state has assumed responsibility, and paternity has not been established.

(2) The ~~((department))~~ agency shall not apply this rule to:

(a) Nonassistance cases;

(b) Cases where the ~~((residential parent lives out of state))~~ agency is responding to a request for services initiated by another state;

(c) Cases in which the ~~((eustodial parent))~~ physical custodian is claiming good cause for not cooperating with the department; and

(d) Cases where parentage is ~~((in))~~ an issue and:

(i) Has not been established by superior court order; or

(ii) Is not the subject of a presumption under RCW 26.26.040 (1)(a) or (e).

(3) The ~~((department))~~ agency shall consider a prorated share of each monthly public assistance payment as paid on each day of the month.

~~((4) For support obligations owed for months before September 1, 1979, and for which a final determination was issued on or after September 1, 1979, the department shall exercise reasonable efforts to locate the responsible parent. The department shall serve a notice and finding of financial responsibility within six months of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If service is not timely, the department shall lose the right to reimbursement of public assistance payments made after the sixth month and before the notice is served. However, the department shall:~~

~~((a) Not lose the right to reimbursement of public assistance payments for any period of time during which it exercised reasonable efforts to locate the responsible parent. Reasonable efforts to locate shall be supported by contemporaneous recordings in the department's files;~~

~~((b) Not apply this rule to nonassistance cases, cases where the residential parent lives out of state, or cases where parentage is in issue and has not been established by superior court order;~~

~~((c) Consider a prorated share of each monthly public assistance payment as paid on each day of the month.))~~

AMENDATORY SECTION (Amending Order 3403, filed 6/9/92, effective 7/10/92)

WAC 388-11-048 Request for ~~((blood))~~ paternity tests—Liability for costs. (1) At any time after the service of a notice and finding of parental responsibility, the responsible parent may request paternity ~~((blood))~~ tests. The responsible parent shall make the request in writing and ~~((serve the request on the office of support enforcement (OSE) by registered or certified mail or like a summons in a civil action))~~ send or deliver the request to the agency.

(2) Upon receipt of a request for ~~((blood))~~ paternity tests, ~~((OSE))~~ the agency shall:

(a) Arrange and pay for the ~~((blood))~~ paternity test, except as provided in subsection (6) of this section, with a laboratory under contract with the department to perform paternity ~~((blood))~~ testing; and

(b) Notify the responsible parent and ~~((eustodial parents))~~ the physical custodian of the time and place to appear to give blood samples.

(3) After ~~((OSE))~~ the agency receives the ~~((blood))~~ test results, ~~((OSE))~~ the agency shall:

(a) Mail a notice of the ~~((blood))~~ test results to the:

(i) Responsible parent's last known address by certified mail, return receipt requested; and

(ii) ~~((Custodial parent's))~~ Physical custodian's last known address by first class mail.

(b) Notify the responsible parent:

(i) Of the costs of the ~~((blood))~~ tests;

(ii) That an administrative order entered as a result of the notice and finding of parental responsibility will include the cost of the ~~((blood))~~ tests; and

(iii) That ~~((OSE))~~ the agency may take collection action to collect the ~~((blood))~~ paternity test costs twenty days after the date the responsible parent receives notice in Washington, or within the time specified in WAC 388-11-305, of the ~~((blood))~~ test results if the responsible parent fails to:

(A) Request either ~~((an adjudicative proceeding))~~ a hearing on the issue of reimbursement to the agency for paternity test costs under WAC 388-11-290 or the initiation of a parentage action in superior court; or

(B) Negotiate an agreed settlement;

(iv) If the notice was served in another state, the agency may take collection action according to WAC 388-11-305.

(4) When the ~~((blood))~~ paternity tests do not exclude the responsible parent from being the natural parent, the responsible parent shall reimburse the department for the costs of the ~~((blood))~~ tests.

(5) When the ~~((blood))~~ paternity tests exclude the responsible parent from being the natural parent, ~~((OSE))~~ the agency shall:

(a) File a copy of the results with the state center for health statistics;

(b) Withdraw the notice and finding of parental responsibility; and

(c) Request the dismissal of any pending action based on the notice and finding of parental responsibility.

(6) RCW 74.20A.056 does not require ~~((OSE))~~ the agency to arrange ~~((for))~~ or pay for paternity ~~((blood))~~ testing when:

(a) Such tests were previously conducted; or

(b) A court order establishing paternity has been entered.

AMENDATORY SECTION (Amending Order 3731, filed 4/28/94, effective 5/29/94)

WAC 388-11-065 Defenses to liability. (1) A responsible parent who objects to a notice and finding of ~~((parental or))~~ financial, parental, or medical responsibility shall have the burden of establishing defenses to liability. Defenses include, but are not limited to:

(a) Payment;

(b) Superior court or administrative order that sets the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation;

(c) ~~(He or she)~~ The party is not a responsible parent;

(d) The amount requested in the notice is inconsistent with the amount assessed under WAC 388-11-205;

(e) Equitable estoppel, subject to WAC 388-11-067; or

(f) Any other matter constituting an avoidance or affirmative defense.

(2) A dependent child's or a ~~(residential parent's)~~ physical custodian's ineligibility to receive public assistance is not a defense to the assessment of a support obligation.

(3) A responsible parent may be excused from providing support for a dependent child receiving public assistance under chapter 74.12 RCW if the responsible parent is the legal custodian of the child and has been wrongfully deprived of physical custody of the child. The responsible parent may only be excused for any period during which such parent was wrongfully deprived of custody. The responsible parent shall establish that:

(a) A court of competent jurisdiction of any state has entered an order giving legal and physical custody of the child to the responsible parent;

(b) The custody order has not been modified, superseded, or dismissed;

(c) The child was taken or enticed from the responsible parent's physical custody and such parent has not subsequently assented to deprivation. Proof of enticement shall require more than a showing that the child is allowed to live without certain restrictions the responsible parent would impose; and

(d) Within a reasonable time after deprivation, the responsible parent exerted and continues to exert reasonable efforts to regain physical custody of the child.

AMENDATORY SECTION (Amending Order 3622, filed 8/16/93, effective 9/16/93)

WAC 388-11-120 Default—Vacate. (1) If ~~(the responsible parent)~~ a party fails to appear at a hearing, the ~~(administrative law judge)~~ presiding officer shall, upon a showing of valid service, enter an initial decision and default order or proceed in the absence of the defaulting party as provided in WAC 388-11-140(6) or 388-11-425. The ~~(administrative law judge)~~ presiding officer shall state in the decision that the:

(a) Support debt and the current support obligation stated in the notice and finding of financial or parental responsibility are assessed, determined, and subject to collection action; or

(b) Health insurance provisions of the notice and finding of financial, parental or medical responsibility are subject to direct enforcement action.

(2) Decisions and orders on default become final twenty-one days from the date of mailing under WAC 388-08-464.

(3) Any party against whom the ~~(administrative law judge)~~ presiding officer has entered an initial decision and order on default may petition the secretary or the secretary's designee for vacation of the default order, subject to the provisions, including time limits, of civil rule 60.

(4) ~~(The petitioning party shall:~~

~~(a) File the petition within one year from the:~~

~~(i) Effective date of this subsection; or~~

~~(ii) Date of notice of default.~~

~~(b) Serve a copy of the petition on the office of support enforcement like a summons in a civil action, or by any form of mail requiring a return receipt.~~

~~(5))~~ The ~~(department)~~ agency shall:

(a) Schedule ~~(an adjudicative proceeding)~~ a hearing to determine whether or not the petitioner has good cause for vacating the default order; and

(b) Give any other parties to the ~~(proceeding)~~ hearing notice of the time and date of the ~~(proceeding)~~ hearing. The department shall send the notice to the last known address of the party.

~~((6))~~ (5) If, in ~~(any proceeding)~~ a hearing under ~~(subsection (3) of)~~ this section, the presiding officer finds that the petitioner has good cause for vacating the default order, the presiding officer shall:

(a) Conduct ~~(an adjudicative proceeding)~~ a hearing on the merits of the petitioner's objection to the notice that was the basis for the ~~(proceeding)~~ hearing at which the petitioner failed to appear; and

(b) May stay any further collection to the extent provided for under the regulations authorizing the notice the responsible parent originally objected to.

~~((7) "Good cause" is the same standard as that prescribed for failure to make a timely hearing request under WAC 388-11-011(12).)~~

(6) The presiding officer shall apply civil rule 60 to determine whether the petitioner has good cause.

AMENDATORY SECTION (Amending Order 3344, filed 3/24/92, effective 4/24/92)

WAC 388-11-140 Modification. (1) ~~(A party to an administrative order for support, including the department,)~~ The agency, the physical custodian or the responsible parent may request ~~(an adjudicative proceeding)~~ a hearing to prospectively modify the responsible parent's obligation under a support establishment notice.

A party shall make such a request in ~~(declaration form)~~ writing and shall state:

(a) Any circumstances that have changed; and

(b) The amount of support the circumstances now warrant.

(2) The petitioning party shall ~~(serve)~~ file the request for modification ~~(or)~~ with the ~~(department like a summons in a civil action or by certified mail, return receipt request)~~ agency.

(3) The ~~(department)~~ agency shall serve ~~(copies)~~ a copy of the ~~(petition)~~ request for modification and notice of hearing on all other parties ~~(like a summons in a civil action or by certified mail return receipt requested)~~:

(a) By first class mail, if the parties have been advised in a court or administrative order of the requirement to keep the agency advised of their addresses; or

(b) By certified mail, return receipt request or personal service if the support order does not contain a requirement to advise the agency of their address.

(4) ~~(OSE)~~ The agency, the presiding officer, or the department review judge;

(a) Shall prospectively modify orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of RCW 26.21.580.

(5) If the responding party fails to appear at the hearing, the presiding officer shall issue a default order based on the Washington state child support schedule, and worksheets submitted by the parties, and considering the terms set out in the request for modification. If the petitioning party fails to appear at the hearing, the presiding officer shall enter an order dismissing the request for modification.

(6) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the presiding officer may:

(a) Dismiss the petition; or

(b) Continue the hearing to give the petitioning party time to amend according to WAC 388-11-300(1) or to complete the petition.

(7) The presiding officer may set the effective date of modification as the date the order is issued, the date the request was made, or any time in between. If an effective date is not set, the effective date ~~((shall be))~~ is the date the modification order is entered.

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-11-150 Consent order and agreed settlement. (1) The department may enter a consent order or agreed settlement to dispose of any contested case. The department shall use consent orders and agreed settlements in any case in which such informal disposition is feasible.

(a) An agreed settlement shall be effective without approval of ~~((an administrative law judge))~~ a presiding officer.

(b) A consent order shall require the approval of ~~((an administrative law judge))~~ a presiding officer to be effective. The ~~((administrative law judge))~~ presiding officer shall approve a consent order without requiring testimony or a hearing unless the entry of such an order would be specifically contrary to law.

(2) If negotiations to a consent order or agreed settlement are commenced within twenty days of service of ~~((the))~~ a support establishment notice ~~((and finding of financial or parental responsibility))~~ in Washington, or within sixty days of service of the support establishment notice in another state, and such negotiations fail, the responsible parent shall have an additional twenty days from the date the negotiations fail to file a written request for a hearing. ~~((The department shall consider a hearing request filed within twenty days of the date negotiations failed, to be timely.))~~

(3) A party to a consent order or an agreed settlement may:

(a) Not petition for review of the settlement or order under WAC 388-08-464;

(b) Petition for modification under WAC 388-11-140; and

(c) Petition to vacate the settlement or consent order under WAC ~~((388-11-115))~~ 388-11-120. The presiding officer may only vacate a settlement or consent order on making a finding of fraud by a party, or on any other basis that would result in manifest injustice.

AMENDATORY SECTION (Amending Order 3512, filed 2/10/93, effective 3/13/93)

WAC 388-11-210 Administrative orders. (1) The ~~((department))~~ agency and the presiding officer shall include in every administrative child support order the:

(a) ~~((Responsible parent's and residential parent's net income;~~

~~(b) Amount of the responsible parent's share of the basic support obligation without adjustments;~~

~~(c) Amount of the responsible parent's share of the basic support obligation after adjustments;~~

~~(d) Specific reasons for deviation, if the adjusted amount is different than the unadjusted amount;~~

~~(e))~~ Completed Washington state child support worksheets including all findings of fact required by chapter 26.19 RCW necessary to support the amounts ordered;

(b) Total amount of the responsible parent's support obligation with the transfer payment stated as an amount per month per child;

~~((f))~~ (c) Specific day of the month on which the support payment is due;

~~((g))~~ (d) Responsible parent's Social Security number, ~~((residence))~~ mailing address, and the name and address of the responsible parent's employer;

~~((h) Residential parent's Social Security Number;~~

~~(i) Names, birthdates, and Social Security Numbers, if any, of the dependent child;~~

~~((j))~~ (e) Physical custodian's Social Security number;

~~(f) Name, birthdate, and Social Security number, if any, of each dependent child;~~

(g) Disposition of the responsible parent's obligation to provide health insurance under WAC 388-11-215, including notice that the agency may take direct enforcement action if the responsible parent fails to comply with WAC 388-11-215(b);

~~((k))~~ (h) Statement that the responsible parent shall make all support payments to the Washington state support registry;

~~((l))~~ (i) Statement that ~~((each parent shall))~~ the responsible parent and the physical custodian must each notify the Washington state support registry of a change in ~~((resident))~~ residence or mailing address;

~~((m))~~ (j) Statement that the responsible parent must keep the Washington state support registry informed of the:

(i) Name and address of ~~((that))~~ the responsible parent's employer;

(ii) Availability of health insurance coverage for the ~~((dependant))~~ dependent child or children ~~((at reasonable cost));~~ and

(iii) If health insurance is available, of the health insurance policy information.

~~((n) Statement that a support obligation established under this chapter shall continue until:~~

~~(i) Modified under WAC 388-11-140;~~

~~(ii) Superseded by a superior court order; or~~

~~(iii) The child for whom support is assessed reaches the age of majority or is emancipated, unless the child is a full-time student in high school or its vocational equivalent, and is reasonably expected to graduate before turning nineteen years of age, in which case the support obligation~~

~~shall continue until the earlier of the child's graduation from high school or the child's nineteenth birthday; and~~

~~(e))~~ (k) Duration of the support obligation under WAC 388-11-155(1); and

(l) Statement that the responsible parent is liable for the following costs based on the parent's proportionate share of the basic support obligation, if these costs are known when the order is entered:

(i) Health care costs, including extraordinary health care costs, not covered by health insurance;

(ii) Day care expenses; and

(iii) Approved special child-rearing expenses.

(2) Unless the presiding officer finds good cause or approves an alternate (~~payment~~) arrangement under subsection (3) of this section, the (~~support order~~) presiding officer shall (~~contain~~) include a statement that the (~~department~~) agency may issue a notice of payroll deduction under chapter 26.23 RCW or may take other income withholding action under chapters 26.18 or 74.20A RCW at any time, without further notice to the responsible parent.

(3) The presiding officer may enter an order that does not contain the notice required by subsection (2) of this section if the presiding officer, based upon a written finding that it would be in the best interests of the child:

(a) Finds that one of the parties has demonstrated good cause not to require immediate income withholding; or

(b) Approves a written agreement signed by both parties that provides for an alternate (~~payment~~) arrangement.

(4) All support orders containing an alternate (~~payment~~) arrangement approved under subsection (3)(a) or (b) of this section shall include a statement that the (~~department~~) agency may issue a notice of payroll deduction under chapter 26.23 RCW or may take other income withholding action under chapters 26.18 or 74.20A RCW when:

(a) A support payment is not paid when due; and

(b) An amount equal to or greater than the support payable for one month is owed.

(5) The department and the presiding officer shall:

(a) Base all findings of good cause under subsection (3)(a) of this section on a finding that immediate wage withholding would not be in the best interests of the child; and

(b) Include in the support order a written explanation of why immediate wage withholding would not be in the best interests of the child.

(6) When modifying an existing support order, the (~~department~~) agency and the presiding officer shall not make a finding of good cause under subsection (3)(a) of this section without:

(a) Finding that immediate wage withholding would not be in the best interests of the child;

(b) Proof of timely payment of previously ordered support; and

(c) Including a written explanation of why immediate wage withholding would not be in the best interests of the child.

(7) The responsible parent's assertion that a payroll deduction would displease the parent's employer does not by itself establish "good cause" under subsection (3)(a) of this section.

AMENDATORY SECTION (Amending Order 3081, filed 9/28/90, effective 10/29/90)

WAC 388-11-215 Health insurance. (1) A parent owing a duty of support shall be obligated to provide health insurance for the parent's dependent child if the coverage is:

(a) Available or becomes available through employment or is union related; and

(b) Available at a cost not greater than twenty-five percent of the parent's basic support obligation.

(2) Following the entry of an administrative order requiring health insurance, the responsible parent shall within twenty days:

(a) Provide health insurance coverage;

(b) Provide proof of coverage to the (~~office of support enforcement (OSE)~~) agency. Proof of coverage (~~shall~~) includes, but is not (~~be~~) limited to, documentation showing the:

(i) Name of the insurer providing the health insurance coverage;

(ii) Names of the beneficiaries covered;

(iii) Policy number;

(iv) Coverage is current; and

(v) Name and address of the responsible parent's employer.

(c) (~~Inform OSE if~~) Provide the agency with proof that coverage is not currently available.

(3) If health insurance coverage for the child is not immediately available, the responsible parent shall provide for coverage during the next open enrollment period and submit proof of coverage as required under subsection (2)(b) of this section.

(4) A responsible parent shall only be entitled to the reduction for health insurance premiums paid if the responsible parent:

(a) (~~The responsible parent~~) Submits proof of coverage to (~~OSE~~) the agency as required under WAC 388-11-215; and

(b) (~~The responsible parent~~) Pays the required premium(~~;~~ and).

(~~(e))~~ (5) If the responsible parent fails to submit proof or pay the premium(~~;~~ ~~OSE~~) as required under subsection (4) of this section, the agency shall collect the adjusted basic support obligation without a reduction for health insurance premium payments.

(~~(5))~~ (6) Health insurance (~~shall~~) does not include medical assistance provided by the department under chapter 74.09 RCW.

(7) A child's enrollment in Indian Health Services satisfies the requirements of this section.

AMENDATORY SECTION (Amending Order 3163, filed 4/23/91, effective 5/24/91)

WAC 388-11-220 Liability for birth costs. (1) The (~~department~~) agency may assess a responsible parent's liability for a dependent child's birth costs, not covered by health insurance, if there is no (~~superior court~~) order assessing or relieving the responsible parent of liability for birth costs. The (~~department~~) agency shall assess liability for birth costs based on the parent's proportionate share of the basic support obligation for the child, except as provided under subsections (4) and (5) of this section. Medical

assistance provided by the department under chapter 74.09 RCW is not health insurance.

(2) The ~~((office of support enforcement (OSE)))~~ agency may serve an affidavit of birth costs on the responsible parent by certified mail to the parent's last known address if the actual costs of birth were not included in the notice and finding of parental responsibility.

(3) ~~((OSE))~~ The agency may take action to collect the birth costs under chapters 26.23 and 74.20A RCW:

(a) Twenty days after service in Washington of the affidavit of birth costs or service of a notice and finding of parental responsibility stating birth costs, unless the responsible parent requests ~~((an adjudicative proceeding))~~ a hearing under subsection (4) of this section; ~~((or))~~

(b) After the entry of a support order requiring payment of birth costs; or

(c) If the affidavit was served in another state, according to WAC 388-11-305.

(4) A responsible parent may request ~~((an adjudicative proceeding))~~ a hearing seeking a reduction of, or relief from, the parent's liability for birth costs. The ~~((department))~~ agency shall:

(a) Assess liability for birth costs in the lesser of the following amounts:

(i) The responsible parent's proportional share of the actual birth costs the ~~((custodial parent))~~ physical custodian paid based on the responsible parent's share of the combined net income of the parties; or

(ii) Twenty-five percent of the greater of the:

(A) Responsible parent's annual net income; or

(B) Approximate median net annual income for a person in the responsible parent's age group as published in the Washington state support schedule.

(b) Relieve the responsible parent from liability based on a written finding supported by evidence that the parent is unemployable and disability benefits are the parent's only source of income.

(5)(a) The ~~((department))~~ agency shall not establish a liability for birth costs paid by the ~~((department))~~ agency, except that the department shall be allowed to:

(i) Establish and collect reimbursement for ~~((blood test))~~ paternity test costs paid by the ~~((department))~~ agency; and

(ii) Collect reimbursement for birth costs as awarded to the ~~((department))~~ agency in an existing superior court order or administrative order.

(b) Nothing in this rule shall prohibit the ~~((department))~~ agency from:

(i) Establishing and collecting a liability for birth costs actually incurred by a recipient of nonassistance support enforcement services on behalf of that recipient; or

(ii) Seeking reimbursement for birth costs from any available health insurance coverage.

NEW SECTION

WAC 388-11-280 Credit for dependent benefits. (1) The agency shall allow credit for dependent benefits paid by the department of labor and industries, a self-insurer, or the Social Security Administration according to the terms of this section and RCW 26.18.190.

(2) The agency shall allow credit against the child support obligation of a responsible parent for dependent

benefits paid to the child or the child's physical custodian after June 30, 1990, as a result of the responsible parent's disability by:

(a) The department of labor and industries;

(b) A self-insurer under chapter 51.32 RCW; or

(c) The Social Security Administration before July 23, 1995.

(3) Except as provided in subsection (4) of this section, the agency shall apply credit for benefits:

(a) First against the current support obligation for the month in which the benefit is paid for the dependent child to whom the benefit was paid; and

(b) Second to the responsible parent's support debt for the child for whom the benefit was paid. In crediting the benefit amount against the support debt, the agency shall credit:

(i) First against any support debt owed to the nonassistance support enforcement services recipient to whom the benefit was paid; and

(ii) Any remaining benefit amount against the responsible parent's support debt to the agency for the dependent child and/or physical custodian to whom the benefit was paid.

(4) The agency shall credit dependent benefits paid by the Social Security Administration after July 22, 1995, as a result of a responsible parent's disability, death or retirement against the responsible parent's child support obligation for the period for which the benefits were paid. The agency shall not credit benefit amounts exceeding the obligation for the period for which the benefits were paid against the responsible parent's:

(a) Support debt; or

(b) Obligation to pay support for future months.

(5) A responsible parent must prove payment of benefits for which credits are claimed under this section and has no right to:

(a) Reimbursement because of a credit allowed under this section;

(b) Credit for disability benefits actually paid prior to July 1, 1990; or

(c) Credit for benefits paid before July 23, 1995, by the Social Security Administration as a result of death or retirement.

(6) The agency shall mail a notice of credit to the physical custodian if the agency agrees to credit the responsible parent for disability or retirement benefits under this section unless the agreement to credit occurred during a negotiation or a hearing in which the physical custodian was present and a party. The agency shall:

(a) Include in the notice the amount of the credit; and

(b) Advise the physical custodian that:

(i) The physical custodian may request a hearing to contest the credit by filing a written application for a hearing with the agency within twenty-three days of the date of mailing of the notice; and

(ii) If the physical custodian files an application for hearing, the agency shall give the responsible parent notice of and an opportunity to participate in the hearing.

NEW SECTION

WAC 388-11-285 Notice and finding of financial responsibility. (1) The agency may serve a notice and finding of financial responsibility (NFFR) on a responsible parent to establish a support obligation under chapter 26.21 or 74.20A RCW if there is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation.

(2) The agency shall serve an NFFR like a summons in a civil action or by certified mail, return receipt requested.

(3) In an NFFR, the agency shall include the information required by WAC 388-11-210 and RCW 74.20A.055 and calculate:

(a) The responsible parent's accrued support debt and current support obligation using, in the following order of preference:

(i) Actual income;

(ii) Estimated income, if the agency has:

(A) Incomplete information;

(B) Information based on the prevailing wages in the responsible parent's trade or profession; or

(C) Information that is not current.

(iii) Imputed income under RCW 26.19.071(6); and

(b) The responsible parent's health insurance coverage obligation under WAC 388-11-215.

(4) The responsible parent shall make all support payments after service of an NFFR to the Washington state support registry. The agency shall not credit payments made to any other party after service of an NFFR except as provided in WAC 388-11-015 and 388-11-280.

(5) An NFFR becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the responsible parent, within twenty days of service of the NFFR in Washington:

(a) Contacts the agency and signs an agreed settlement; or

(b) Files a written request with the agency for a hearing.

(6) An NFFR served in another state becomes final and subject to collection action according to WAC 388-11-305.

(7) The effective date of a hearing request is the date the agency receives the request.

(8) A hearing on the merits of an objection to an NFFR is for the limited purpose of resolving the accrued support debt and current support obligation.

(9) The responsible parent has the burden of proving any defenses to liability. See WAC 388-11-065.

(10) The agency shall mail notice of any hearing scheduled under this section to the physical custodian at the physical custodian's last known address. The physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400 through 388-11-425.

(11) If a responsible parent requests a late hearing under WAC 388-11-310, the responsible parent must show good cause for filing a late hearing request if the request is filed more than one year after service of the NFFR.

(12) WAC 388-11-155 governs the duration of an obligation established under this section.

(13) An NFFR shall fully and fairly apprise the responsible parent of the rights and responsibilities in this section.

NEW SECTION

WAC 388-11-290 Notice and finding of parental responsibility. (1) The agency may serve a notice and finding of parental responsibility (NFPR) on a responsible parent to establish a support obligation under RCW 74.20A.056 if:

(a) There is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation;

(b) An affidavit acknowledging paternity is filed with the center for health statistics or the vital records agency of another state; and

(c) The mother and responsible parent who signed the affidavit were eighteen years of age or older at the time they signed the affidavit, or have reached eighteen years of age after signing the affidavit. If the mother was married at the time of the child's birth, but not to the responsible parent acknowledging paternity, the man to whom she was married must also have signed the affidavit to deny paternity.

(2) The agency shall attach a copy of the acknowledgement of paternity or certification of birth record information to the NFPR.

(3) The agency shall serve an NFPR like a summons in a civil action or by certified mail, return receipt requested.

(4) In an NFPR, the agency shall include the information required by WAC 388-11-210 and calculate, according to WAC 388-11-285(3) the responsible parent's:

(a) Accrued support debt;

(b) Current support obligation;

(c) Health insurance coverage obligation under WAC 388-11-215; and

(d) Birth costs if known and assessed pursuant to WAC 388-11-220.

(5) The agency may not assess an accrued support debt for a period longer than five years before the notice is served. This limitation does not apply to the extent that the responsible parent hid or left the state of Washington for the purpose of avoiding service.

(6) The responsible parent shall make all support payments after service of an NFPR to the Washington state support registry. The agency shall not credit payments made to any other party against the support obligation except as provided in WAC 388-11-015 and 388-11-280.

(7) An NFPR becomes final and subject to immediate wage withholding and enforcement under chapters 26.18, 26.23, and 74.20A RCW without further notice unless the responsible parent, within twenty days of service of the notice in Washington:

(a) Contacts the agency and signs an agreed settlement;

(b) Files a written request with the agency for a hearing; or

(c) Requests paternity tests under WAC 388-11-048 to determine if he is the natural father of the dependent child named in the notice and cooperates in the testing.

(8) An NFPR served in another state becomes final according to WAC 388-11-305.

(9) The effective date of a hearing or paternity test request is the date the agency receives the request.

(10) A responsible parent may request paternity tests at any time. Such a request stays agency collection action only if made within the time specified in subsection (9) of this

PERMANENT

section, if the NFPR was served in Washington, or under WAC 388-11-305, if the NFPR was served in another state.

(11) A timely hearing request filed by the responsible parent stays agency collection action until the entry of a final order.

(12) If the responsible parent does not request a hearing or paternity tests within the time allowed by subsection (7) or (8) of this section, the agency shall not refund money collected under the notice if the responsible parent is later:

(a) Excluded from being the father by paternity tests; or
(b) Found not to be the father by a court of competent jurisdiction.

(13) If the results of paternity tests requested under subsection (7) or (8) of this section do not exclude the responsible parent as the natural father of the dependent child, the responsible parent shall have twenty days from the date of service of the paternity test results in Washington to request in writing:

(a) A hearing under subsection (7)(b) of this section, if the paternity tests were requested within twenty days of service of the notice in Washington; or

(b) That the agency initiate a parentage action in superior court under chapter 26.26 RCW.

(14) The provisions of WAC 388-11-305 apply to paternity test results served in another state.

(15) A hearing request or a request for a parentage action is filed on the date it is received by the agency.

(16) A hearing on the merits of an NFPR is for the limited purpose of resolving the accrued support debt, current support obligation, and reimbursement to the agency for paternity test costs.

(17) In a hearing under subsection (7)(b) of this section the responsible parent shall have the burden of proving any defenses to liability. See WAC 388-11-065.

(18) The agency shall mail notice of any hearing scheduled under this section to the physical custodian at the physical custodian's last known address. The physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400 through 388-11-425.

(19) If a responsible parent requests a late hearing under WAC 388-11-310, the responsible parent must show good cause for filing the late hearing request if the parent files the request more than one year after service of the NFPR.

(20) WAC 388-11-155 governs the duration of an obligation established under this section.

(21) An NFPR shall fully and fairly apprise the responsible parent of the rights and responsibilities in this section.

NEW SECTION

WAC 388-11-295 Notice and finding of medical responsibility. (1) The agency may serve a notice and finding of medical responsibility (NFMR) on a responsible parent to establish a health insurance coverage obligation under chapter 74.20A RCW if:

- (a) There is no order that:
- (i) Establishes the responsible parent's health insurance coverage obligation; or
 - (ii) Specifically relieves the responsible parent of a health insurance coverage obligation;
- (b) The physical custodian or dependent child is receiving or certified eligible to receive medical assistance

and is not receiving cash grant public assistance under chapter 74.12 RCW; and

(c) The physical custodian has requested medical support enforcement only and has asked the agency in writing not to collect monetary child support.

(2) The agency shall serve an NFMR like a summons in a civil action or by certified mail, return receipt requested.

(3) In an NFMR, the agency shall include the information required by WAC 388-11-210 and calculate the responsible parent's obligation to provide health insurance coverage for the dependent child under WAC 388-11-215, including the:

(a) Maximum premium amount the responsible parent is obligated to pay; and

(b) Income basis used to calculate the maximum premium amount, according to WAC 388-11-285(3).

(4) An income basis for an obligation established by the agency under this section shall not be binding in any later action to establish a cash child support obligation.

(5) An NFMR becomes final and subject to enforcement under RCW 26.18.170 and WAC 388-11-215 and 388-14-480 without further notice unless the responsible parent, within twenty days of service of the notice in Washington:

(a) Contacts the agency and signs an agreed settlement or consent order; or

(b) Files a written request with the agency for a hearing. The effective date of a hearing request is the date the agency receives the request.

(6) An NFMR served in another state becomes final according to WAC 388-11-305.

(7) A hearing on the merits of an NFMR is for the limited purpose of resolving the responsible parent's health insurance coverage obligation.

(8) The responsible parent shall have the burden of proving any defenses to liability. See WAC 388-11-065.

(9) The agency shall mail notice of any hearing scheduled under this section to the physical custodian at the physical custodian's last known address. The physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400 through 388-11-425.

(10) If the physical custodian applies for full support enforcement services while a hearing on an NFMR is pending, the agency may, at any time before the hearing record is closed, convert the hearing to a hearing on a notice and finding of financial responsibility under WAC 388-11-285, or a notice and finding of parental responsibility under WAC 388-11-290. To convert the hearing, the agency shall serve a notice and finding of financial responsibility or parental responsibility on the responsible parent and file a copy with the presiding officer. The presiding officer may grant a continuance if a party requests additional time to respond to the claim for cash child support.

(11) The presiding officer in the initial decision shall determine the:

- (a) Basic support obligation, without deviations; and
- (b) Maximum premium amount under chapter 26.19 RCW and WAC 388-11-215.

(12) If a responsible parent requests a late hearing under WAC 388-11-310, the responsible parent must show good cause for filing the late hearing request if it is filed more than one year after service of the NFMR.

(13) WAC 388-11-155 governs the duration of an obligation established under this section.

(14) An NFMR shall fully and fairly apprise the responsible parent of the rights and responsibilities in this section.

NEW SECTION

WAC 388-11-300 Amending notices. (1) The agency may orally amend a notice issued under chapters 388-11, 388-13, or 388-14 WAC at the hearing to conform to the evidence. When the agency amends a notice at the hearing the:

(a) Presiding officer may grant a continuance when necessary to allow the parties additional time to present evidence and argument as to the amendment; and

(b) Agency shall reduce the terms of the amendment to writing and provide a copy, in person or by regular mail to the last known address of the parties, and to the presiding officer within a reasonable time after amending the notice. The amended notice does not generate a new hearing right.

(2) When the agency has obtained reliable information that the income basis of the notice is incorrect, the agency shall amend a notice issued under WAC 388-11-285, 388-11-290, or 388-11-295 prior to seeking a default order for failure to appear. An amendment under this subsection shall be made according to the terms of subsection (1) of this section.

(3) Subsection (2) of this section does not apply:

(a) To cases in which no one has requested a hearing;

or

(b) After the presiding officer has closed the hearing record.

NEW SECTION

WAC 388-11-305 Uniform Interstate Family Support Act—Notices served in another state. (1) Where grounds for personal jurisdiction exist under RCW 26.21.075 or other Washington law, the agency may serve the following legal actions in another state by certified mail, return receipt requested or by personal service, under chapter 26.21 RCW:

(a) A notice and finding of financial responsibility under WAC 388-11-285; and

(b) A notice and finding of parental responsibility under WAC 388-11-290;

(c) A notice of paternity test costs under WAC 388-11-048; or

(d) An affidavit of birth costs under WAC 388-11-220.

(2) A notice and finding of financial responsibility, a notice of paternity test costs, or an affidavit of birth costs becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the responsible parent, within sixty days of service in another state:

(a) Contacts the agency and signs an agreed settlement or consent order; or

(b) Files a written request for a hearing under:

(i) WAC 388-11-285(5) for a notice and finding of financial responsibility;

(ii) WAC 388-11-220 for an affidavit of birth costs; or

(iii) WAC 388-11-048 for a notice of paternity test costs.

(3) The effective date of a hearing request is the date the agency receives the hearing request.

(4) A notice and finding of parental responsibility becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the responsible parent, within sixty days of service in another state:

(a) Contacts the agency and signs an agreed settlement or consent order;

(b) Files a written request for a hearing under WAC 388-11-290(9) with the agency; or

(c) Files a written request for paternity testing under WAC 388-11-048 to determine if he is the natural father of the dependent child named in the notice and cooperates in the testing. A request for a hearing or paternity testing is filed on the date the request is received by the agency.

(5) If the results of paternity tests requested under subsection (4) of this section do not exclude the responsible parent as the natural father of the dependent child, the notice and finding of parental responsibility becomes final and subject to immediate wage withholding without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the responsible parent, within sixty days of service of the paternity test costs in another state:

(a) Contacts the agency and signs an agreed settlement or consent order; or

(b) Files a written request for a hearing under WAC 388-11-290(9).

(6) Presiding officers and parties shall conduct administrative hearings on notices served in another state under this section under the special rules of evidence and procedure in chapter 26.21 RCW and according to chapter 34.05 RCW.

NEW SECTION

WAC 388-11-310 Request for late hearing—Good cause. (1) A person with a right to a hearing under chapter 388-11, 388-13, or 388-14 WAC may file a written request for a late hearing after the period for requesting a timely hearing has passed. The effective date of a hearing request is the date the agency receives the request.

(2) Filing a request for a late hearing does not stay:

(a) Collection and enforcement under chapters 26.18, 26.23, or 74.20A RCW;

(b) The effect of any qualified domestic relations order;

(c) Certification of the support debt to the Internal Revenue Service for an income tax refund offset; or

(d) Distribution upon receipt of moneys collected.

(3)(a) A person who files a late hearing request shall show good cause for not filing a timely hearing request unless good cause is not required by the rule governing the notice that is objected to. Good cause is defined in WAC 388-11-011.

(b) If the presiding officer finds good cause for filing a late hearing request, the presiding officer shall:

(i) Issue a decision on the merits of the objection to the notice; and

(ii) Consider whether to order a stay of collection activities until such time as an initial decision or a temporary order under WAC 388-11-315 is issued. Upon request, the

presiding officer shall, based on the evidence presented at hearing, issue an order under WAC 388-11-315, setting or denying temporary support pending the initial decision. This order shall be on the record, but an order denying temporary support need not be in writing.

(c) If the presiding officer does not find good cause for filing a late hearing request, the presiding officer may issue a decision on modification of the current and future support obligation, if applicable, without a showing of a change of circumstances.

(4) If the presiding officer finds good cause for filing a late hearing request, the agency shall not refund any excess moneys collected prior to the finding of good cause. However, the presiding officer may issue a decision which gives credit against future support in the amount of the excess collections when and to the extent that credits against future support do not:

(a) Create hardship to the children for whom support is sought; and

(b) Offset an overpayment of the obligation to the physical custodian against a debt owed to the department; or

(c) Offset an overpayment of the obligation to the department against a debt owed to the physical custodian.

NEW SECTION

WAC 388-11-315 Temporary administrative orders.

(1) If the presiding officer in a hearing to establish a support obligation, or to determine the amount due under an existing order, continues the hearing for any reason, any party to the hearing or the physical custodian may, before the hearing is adjourned, request that the presiding officer issue a temporary order.

(2) If a request for a temporary order is made under subsection (1) of this section, the presiding officer must:

(a) Allow the parties to present the evidence then available

and allow five working days from the date of the hearing for submission of additional documentary evidence;

(b) Issue a temporary order determining the responsible parent's current and future support obligation beginning the month following the hearing, or denying the request;

(c) Include in the temporary order:

(i) A new hearing date within ninety days from the date of the date the presiding officer hears the request for continuance;

(ii) A statement that any amounts collected under the temporary order will be credited and will be offset against any debt established in the initial decision; and

(iii) A statement that amounts collected will be distributed and may be subject to recovery under WAC 388-14-270 from the physical custodian;

(d) Issue the temporary order within twenty calendar days of the date the request for continuance is heard by the presiding officer.

(3) When the presiding officer denies a request for temporary support, the presiding officer shall enter the order in the hearing record, but the order need not be issued in writing.

(4) The presiding officer shall comply with WAC 388-11-205, 388-11-210, and 388-11-215 and include a Washing-

ton state child support schedule worksheet when entering a temporary order.

(5)(a) A temporary order is not an initial decision subject to review under WAC 388-08-464 and terminates on the date an initial decision becomes a final order or on the date of a review decision, if any.

(b) If a responsible parent fails to appear for a continued hearing, the presiding officer shall issue an order on default under WAC 388-11-120.

NEW SECTION

WAC 388-11-400 Physical custodians receiving nonassistance services—Rights to participate in hearings.

(1) This section and WAC 388-11-410 through 388-11-425 of this chapter govern the rights of physical custodians receiving nonassistance support enforcement services to participate in hearings based on support establishment notices. WAC 388-11-405 governs the participation rights of physical custodians receiving AFDC at the time the agency acts to establish a support order under RCW 74.20A.055 and 74.20A.056.

(2) In a hearing based on a support establishment notice, the physical custodian shall have all the rights of a party to an adjudicative proceeding authorized by the Administrative Procedure Act, chapter 34.05 RCW. The exercise of those rights is governed by WAC 388-11-400 through 388-11-430, and chapters 10-08 and 388-08 WAC.

NEW SECTION

WAC 388-11-405 Physical custodians receiving AFDC—Rights to participate in hearings.

(1) Except as set forth in subsection (2) of this section, physical custodians receiving AFDC benefits may participate in hearings based on support establishment notices to the extent allowed under RCW 74.20A.058.

(2) A physical custodian who shows at hearing that it is more likely than not that the total child support obligation will exceed the total amount of AFDC expended during all periods of AFDC receipt, including future eligibility to the extent foreseeable, may participate in hearings to the extent allowed under WAC 388-11-415 through 388-11-430. The presiding officer shall allow argument on this issue. The physical custodian may petition for review of this issue only.

(3) A physical custodian who terminates AFDC after the agency serves a support establishment notice on the responsible parent shall have the right to participate in any subsequent proceeding, including an appeal of any initial decision, related to the notice according to WAC 388-11-400(2).

NEW SECTION

WAC 388-11-410 Notice of proposed child support amount. (1) This section describes and governs agency action in cases under WAC 388-11-400(2).

(2) Before serving a support establishment notice on a responsible parent, the agency shall serve a notice containing a summary of the proposed terms of the notice on the physical custodian by regular mail to the physical custodian's last known address.

(3) The physical custodian shall respond to the notice within twenty days by notifying the agency in writing that the custodian:

(a) Accepts the proposed child support amount and authorizes the agency to sign an agreed settlement or consent order if the order amount is greater than or equal to the proposed child support amount; or

(b) Objects to the proposed child support amount.

(4) A physical custodian who objects to the proposed child support amount must include a specific dollar amount the physical custodian believes to be the correct monthly child support obligation with the objection.

(5) The agency cannot proceed to serve the responsible parent and may initiate case closure action under WAC 388-14-420 (1)(g) unless the physical custodian responds to the notice as required under subsection (3) of this section.

(6) The agency may attempt to reconcile the proposed child support amount with the physical custodian's claim through negotiation or requests for production of documentary evidence. If the agency and the physical custodian reach agreement on a new proposed child support amount, upon written acceptance by the physical custodian, the agency shall proceed under WAC 388-11-415.

(7) The notice of proposed child support amount shall inform the physical custodian of the custodian's rights and responsibilities under this section.

NEW SECTION

WAC 388-11-415 Support establishment notice—Physical custodian accepts proposed child support amount. (1) When the physical custodian accepts the proposed child support amount, the agency shall proceed to serve the responsible parent with the appropriate support establishment notice.

(2) If the responsible parent objects to the support establishment notice, the physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400(2) and 388-11-425, including the right to appeal an adverse decision.

(3) The presiding officer shall conduct a hearing requested under this section according to the terms of:

(a) WAC 388-11-425;

(b) The statute and rules authorizing the support establishment notice;

(c) Chapter 10-08 WAC; and

(d) Chapter 388-08 WAC.

(4) The agency may accept a settlement, without the physical custodian's approval, for an amount equal to or greater than the proposed notice amount accepted by the physical custodian under WAC 388-11-410 (3)(a) or (6).

(5) The agency shall mail a copy of a settlement entered under subsection (4) of this section to the physical custodian within five working days of the date the settlement is entered.

NEW SECTION

WAC 388-11-420 Support establishment notice—Physical custodian objects to the proposed child support amount. (1) When the physical custodian objects to the proposed child support amount, the agency shall proceed to

serve a support establishment notice according to the terms of this section.

(2) In addition to the requirements of the section of this chapter authorizing the notice, the agency shall include the following in a support establishment notice served under this section:

(a) The physical custodian's claimed support amount;

(b) The agency's claimed support amount; and

(c) Notice that:

(i) The agency and the physical custodian disagree on the proper support amount;

(ii) A hearing will be scheduled to resolve the dispute;

(iii) The responsible parent is a party to that hearing;

(iv) If the responsible parent fails to appear for the hearing, the parent will be held in default and the child support amount may be resolved by the remaining parties at any amount equal to or lower than the highest amount claimed by the agency or the custodian; and

(v) The responsible parent may argue and present evidence at the hearing to show that the support obligation should be lower than that claimed by the agency or the custodial parent.

(3) When the agency serves the responsible parent with a notice under this section, the department shall send a notice of their hearing to the physical custodian and the responsible parent at the last known mailing address.

(4) The presiding officer shall conduct a hearing requested under this section according to the terms of:

(a) WAC 388-11-425;

(b) The statute and rules authorizing the support establishment notice;

(c) Chapter 10-08 WAC; and

(d) Chapter 388-08 WAC.

NEW SECTION

WAC 388-11-425 Hearings on support establishment notices—Physical custodian not receiving AFDC. (1) In a hearing under this section, the agency shall proceed first to document the support amount the agency believes to be correct. Following the agency's presentation, the physical custodian and the responsible parent may proceed in turn to show why the agency position is wrong.

(2) If any party appears for the hearing and elects to proceed, absent the granting of a continuance the presiding officer shall hear the matter and enter an initial decision and order based on the evidence presented. The presiding officer shall include a party's failure to appear in the initial decision and order as an order of default against that party. The direct appeal rights of the party who failed to appear shall be limited to an appeal on the record made at the hearing.

(3) If neither party appears and elects to proceed, the presiding officer shall enter an initial decision and order on default, declaring the agency's claim for support to be final subject to collection action.

(4) If the physical custodian appears and the responsible parent fails to appear, the agency or the custodian may seek an order of default against the responsible parent. On obtaining the default order, the agency and the custodian may execute an agreed settlement or consent order setting the support obligation, so long as the settlement is neither:

(a) More than the greatest amount stated in the notice; nor

(b) Less than the lowest amount stated in the notice.

(5) The agency shall not take action to collect support under an order based on subsection (4) of this section until the order has been sent by regular mail to the responsible parent with a copy of the default order.

(6) A party against whom the presiding officer has entered an order of default may petition to vacate the order under WAC 388-11-120. However, a physical custodian who has accepted the proposed notice amount under WAC 388-11-410 (3)(a) may vacate an order based on that amount only on a showing of fraud or misconduct in obtaining the custodian's acceptance of the proposed child support amount.

(7) When a party has advised the presiding officer that they will participate by telephone, the presiding officer shall attempt to contact that party on the record before beginning the proceeding or ruling on a motion. The presiding officer shall not disclose a telephone number or the location of the party appearing by phone.

NEW SECTION

WAC 388-11-430 Settlement and consent order. (1) Except as provided in this section, a consent order or agreed settlement entered under WAC 388-11-415 through 388-11-425 is not valid until it is signed by all parties to the action.

(2) A presiding officer may issue a consent order without the signatures of the parties after reviewing the terms of the order with the parties and making a finding that the parties understand and accept the terms of the order.

(3) A consent order or agreed settlement entered according to WAC 388-11-410 (3)(a) becomes valid without the signature of the custodial parent.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-11-010 Statutory basis.
- WAC 388-11-030 Notice and finding of financial responsibility.
- WAC 388-11-032 Notice and finding of parental responsibility.
- WAC 388-11-035 Notice and finding of medical responsibility.
- WAC 388-11-040 Service of notice and finding of financial or parental responsibility.
- WAC 388-11-055 Petition for hearing after twenty days—Stay.
- WAC 388-11-060 Request for hearing.

**WSR 96-09-037
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 5093—Filed April 10, 1996, 2:55 p.m.]**

Date of Adoption: April 10, 1996.

Purpose: To set minimum qualifications for independent sanitation consultants for food storage warehouses.

Statutory Authority for Adoption: RCW 69.10.055.

Adopted under notice filed as WSR 96-05-027 on February 13, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 10, 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 10, 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.

April 10, 1996
James M. Jesernig
Director

**Chapter 16-168 WAC
APPROVED INDEPENDENT SANITATION
CONSULTANTS FOR FOOD STORAGE WARE-
HOUSES**

NEW SECTION

WAC 16-168-010 What is the purpose of this rule? These rules set minimum qualifications for independent sanitation consultants for food storage warehouses.

NEW SECTION

WAC 16-168-020 Where does the department get authority to establish these rules? Under RCW 69.10.055.

NEW SECTION

WAC 16-168-030 Where can I find the definitions for terms used in this rule? (1) Chapter 69.10 RCW. (2) Chapter 69.04 RCW.

NEW SECTION

WAC 16-168-040 How is independent sanitation consultant for food storage warehouses defined in RCW 69.10.005(5)? "Independent sanitation consultant" means an individual, partnership, cooperative, or corporation that by reason of education, certification, and experience has satisfactorily demonstrated expertise in food and dairy sanitation and is approved by the director to advise on such areas including, but not limited to: Principles of cleaning and sanitizing food processing plants and equipment; rodent, insect, bird, and other pest control; principals [principles] of hazard analysis critical control point; basic food product labeling; principles of proper food storage and protection; proper personnel work practices and attire; sanitary design, construction, and installation of food plant facilities, equipment, and utensils; and other pertinent food safety issues."

PERMANENT

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 16-168-050 What are the minimum qualifications for an approved independent sanitation consultant for warehouses? Education and experience:

(1) A bachelor's degree in biology, chemistry, microbiology, food science, dairy science or a related natural science plus three years experience inspecting food storage warehouses or similar operations for compliance with the Current Good Manufacturing Regulations, 21 CFR part 110 (GMPs); or

(2) Three years of college completed with study in the above subjects plus five years experience inspecting food storage warehouses or similar operations for compliance with the GMPs; or

(3) Two years of college completed with study in the above subjects plus seven years experience inspecting food storage warehouses or similar operations for compliance with the GMPs; or

(4) Eight years experience inspecting food storage warehouses or similar operations for compliance with the GMPs plus verifiable training in pest control, cleaning practices, food storage warehouse inspection or application of the GMPs.

NEW SECTION

WAC 16-168-060 How do I apply for approval? (1) Obtain an application from the department.

(2) Complete the application, listing your qualifications.

(3) Each applicant must sign the application and have their signature notarized.

(4) Return the application to the address listed on the application.

NEW SECTION

WAC 16-168-070 How will I know if my application was approved? If you are successful, you will receive a card identifying you as an approved independent sanitation consultant for food storage warehouses. Your name will also appear on a list of approved independent sanitation consultants for food storage warehouses available on request from the department.

The department will notify applicants who don't meet minimum qualifications or who submit incomplete applications within twenty-one working days in writing.

NEW SECTION

WAC 16-168-080 What would cause the department to deny or withdraw approval of my application? The department may withdraw or deny approval to independent sanitation consultants or applicants under the following circumstances:

(1) For knowingly making false or inaccurate statements regarding qualifications on an application.

(2) For failing to accurately report violative conditions present in food storage warehouse at the time of inspection.

(3) For knowingly making or acquiescing in false or inaccurate statements on inspection reports as to the date of the inspection, findings, corrective actions taken, or any other statement material to the compliance status of a warehouse.

NEW SECTION

WAC 16-168-090 Do I have a right to appeal denial of my application or withdrawal of my approved status? Yes, you have rights of appeal within twenty days of notice of such action under chapter 34.05 RCW, the Administrative Procedure Act.

NEW SECTION

WAC 16-168-100 What are the reporting requirements for inspections by independent sanitation consultants for food storage warehouses? Reporting must be adequate to reflect the level of compliance with the GMPs.

WSR 96-09-038

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Matter No. R 96-3—Filed April 10, 1996, 3:37 p.m.]

Date of Adoption: April 10, 1996.

Purpose: To provide a current description of (1) the organizational and operational structure of the Insurance Commissioner's Office, and (2) how to obtain information from the insurance commissioner.

Citation of Existing Rules Affected by this Order: Amending WAC 284-02-010, 284-02-020, 284-02-030, 284-02-040, 284-02-050, 284-02-060, 284-02-070, 284-02-080, and 284-02-100.

Statutory Authority for Adoption: RCW 48.02.060, 34.05.220 (1)(b).

Adopted under notice filed as WSR 96-04-087 on February 7, 1996; and WSR 96-09-002 on April 3, 1996.

Changes Other than Editing from Proposed to Adopted Version: All changes made at adoption were editing changes.

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 9, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 10, 1996

Deborah Senn

Insurance Commissioner

PERMANENT

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, health care service contractors, health maintenance organizations, 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 performed 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 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 state-wide 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 prepayments, 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 48.19.020 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), 48.44.020, 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.

(e) 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 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((;)) or other entity issuing the policy or contract; the policy and/or claim number((;)); the name of the agent, broker, solicitor, ((or)) adjuster, or viatical settlement broker; the date of loss((;)) 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.

(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~~((;))~~; grounds for actions against fraternal benefit societies are found at RCW 48.36A.300 (domestic) and RCW 48.36A.310 (foreign)~~((;))~~; 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~~((;))~~; 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 ag-

grieved 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~~((;))~~ and is sent to anyone who has requested notice in advance~~((;))~~ 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. Actuarial formulas, statistics, and assumptions submitted by an insurer, health care service contractor, or health maintenance organization in support of a rate or form filing are not available for public inspection (RCW 48.02.120(3)).

(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, (~~or~~) 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 96-09-042

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed April 11, 1996, 9:20 a.m.]

Date of Adoption: March 21, 1996.

Purpose: To comply with chapter 267, Laws of 1995. Health care quality assurance, which amends RCW 43.70.510.

Citation of Existing Rules Affected by this Order: Amending chapter 246-50 WAC.

Statutory Authority for Adoption: RCW 43.70.510.

Adopted under notice filed as WSR 96-04-082 on February 7, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, 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 2, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 10, 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;

PERMANENT

(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 96-09-047

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Matter No. R 96-2—Filed April 11, 1996, 11:09 a.m.]

Date of Adoption: April 11, 1996.

Purpose: To maintain federal certification that Washington state's Medicare supplement regulatory program meets or exceeds federal standards.

Citation of Existing Rules Affected by this Order: Amending 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.

Statutory Authority for Adoption: RCW 48.02.060, 48.66.041, and 48.66.165.

Adopted under notice filed as WSR 96-04-086 on February 7, 1996; and WSR 96-08-016 on March 26, 1996.

Changes Other than Editing from Proposed to Adopted Version: After reviewing the public comments, the substantive provision of a drafting note from the NAIC Medicare Supplement Insurance Minimum Standards Model Regula-

tion, Section 13.A(4), was adopted as WAC 284-66-203 (i)[(1)](e)(iv).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 1, amended 8, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 11, 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 4833))~~ 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 reimbursements 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))~~ three 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))~~ three 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))~~ three months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was

otherwise diagnosed during the ~~((six))~~ three 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.)

~~((#))~~ (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.

~~((#))~~ (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)~~) coverage that provides 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

PERMANENT

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 for the purchase of disability or other medical insurance policies or certificates, that are provided to persons eligible for Medicare, 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 disability or other health insurance policy (the term "policy" or "policies" includes certificates and contracts of all issuers) that duplicate Medicare benefits unless it will pay benefits without regard to other disability or other health coverage and it includes the prescribed disclosure statement on or together with the application.

(b) All types of disability or other 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 substantially 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) 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 disability or other 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) Disclosure statement to be used for policies that provide benefits for expenses incurred for accidental injury only.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

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.

PERMANENT

(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.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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 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 indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the 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

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 & 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.

PERMANENT

(7) Disclosure statement to be used with policies that provide benefits for both expenses incurred and fixed indemnity basis.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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.
- 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.

Before You Buy This Insurance

- ✓ 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.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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 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.

Before You Buy This Insurance

- ✓ 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.

(10) Disclosure statement to be used with policies providing home care benefits only.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
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 insurance provides benefits primarily for covered home care services.

PERMANENT

- 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.

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 applica-

Before You Buy This Insurance

- ✓ 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.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

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.

PERMANENT

tion 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 April 28, 1996, 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 April 28, 1996, 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.

(iv) In meeting the tests in (e)(i), (ii), and (iii) of this subsection, and for purposes of attaining credibility, with the prior written approval of the commissioner, an issuer may combine experience under policy forms which provide substantially similar coverage. Once a combined form is adopted, the issuer may not separate the experience, except with the prior written approval of the commissioner.

(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

PERMANENT

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.

(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</u> <u>Duration</u>	<u>Incurred</u> <u>Losses</u>	<u>Earned</u> <u>Premiums</u>	<u>Loss</u> <u>Ratio</u>	<u>Claim</u> <u>Reserves</u>
----------------------------------	----------------------------------	----------------------------------	-----------------------------	---------------------------------

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

PERMANENT

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

WSR 96-09-055

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed April 12, 1996, 9:36 a.m., effective June 1, 1996]

Date of Adoption: April 11, 1996.

Purpose: These modifications were needed to clarify the board's existing practices, for clarification purposes and to allow the board or its designee to conduct prehearing conferences.

Citation of Existing Rules Affected by this Order: Repealing WAC 251-12-101; and amending WAC 251-14-110, 251-12-232, 251-12-099, 251-12-100, 251-12-102 and 251-12-180; and new WAC 251-14-130, 251-12-104, 251-12-105, and 251-12-106.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-04-053 on February 6, 1996; and continued as WSR 96-07-091 on March 20, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, amended 6, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, amended 6, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 4, amended 6, repealed 1.

Effective Date of Rule: June 1, 1996.

April 12, 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.))~~

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) of this section. 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) of this section. 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) of this section. When the hearings coordinator 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 hearings coordinator to serve the request for arbitration on

PERMANENT

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 thirty 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 (Appeals) 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) Statement of issue;~~

~~(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;~~

~~(i) Scheduling the hearing before the board; and~~

~~(j) 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 mutually agreed upon by the parties.~~

~~(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.~~

AMENDATORY SECTION (Amending WSR 90-13-017, filed 6/8/90, effective 7/9/90)

WAC 251-12-099 Filing of prehearing statements ~~((, briefs, and written argument)).~~ ~~(((1) Any party to a hearing before the board who desires to submit, or when the board 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.

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

NEW SECTION

WAC 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 the 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:~~

PERMANENT

~~(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) The party requesting the continuance 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) 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.

(5) 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 ten calendar days prior to the hearing. The board or designee may allow less than ten calendar days under unusual circumstances. 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 96-09-058
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3965—Filed April 12, 1996, 4:30 p.m.]

Date of Adoption: April 12, 1996.

Purpose: Enable recipients of JOBS and income assistance child care to receive continued child care benefits pending the outcome of a fair hearing.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-135 JOBS, income assistance, and transitional child care—Hearings.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 255.4(F).

Adopted under notice filed as WSR 96-06-026 on February 28, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 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 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 12, 1996

Merry Kogut, Supervisor
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3916, filed 11/8/95, effective 12/9/95)

WAC 388-290-135 JOBS, income assistance, and transitional child care—Hearings. (1) Applicants or recipients shall be entitled to fair hearings under chapter 388-08 WAC on any action affecting child care benefits except for changes resulting from a change in policy or law.

(2) Recipients of JOBS and income assistance child care payments (~~shall not~~) may be eligible for continued child care benefits pending the outcome of a fair hearing if the recipient requests the fair hearing on or before the effective date of the action or within ten days of the notice of adverse action.

(3) Recipients of transitional child care benefits (~~are~~) shall be eligible for continued benefits pending the outcome of a fair hearing if the recipient requests the fair hearing on or before the effective date of the action or within ten days of the notice of adverse action. Continued benefits (~~may~~) shall not extend beyond the family's twelve-month eligibility period.

(4) The department shall consider any child care assistance the recipient receives pending a fair hearing or hearing decision to be an overpayment when the fair hearing decision subsequently finds against the recipient.

WSR 96-09-059
PERMANENT RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY

[Filed April 15, 1996, 1:25 p.m.]

Date of Adoption: April 11, 1996.

Purpose: To exempt the manufacturers of extremely low vapor pressure coating and ink products from regulation and to simplify the rule.

Citation of Existing Rules Affected by this Order:
Amending Regulation II - Section 3.11.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 96-06-055 on March 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 12, 1996

David S. Kircher
Manager - Engineering

AMENDATORY SECTION

REGULATION II SECTION 3.11 COATINGS AND INK MANUFACTURING

(a) This section shall apply to (~~any paint or ink manufacturing facility that mixes, blends, or compounds~~) the manufacture of paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers that contain volatile organic compounds (VOCs) with a true vapor pressure greater than 0.1 mm Hg (0.002 psia).

(b) It shall be unlawful for any person to cause or allow the manufacture of coatings or inks unless ~~(all)~~ the mixing vat~~(s containing VOC are)~~ is kept covered~~(s)~~ (except to add ingredients or to take samples). (~~(, with lids that satisfy all the following conditions:~~

(1) ~~Lids shall extend at least 1/2 inch beyond the outer rim of the vat or be attached to the rim of the vat;~~

(2) ~~Lids shall be maintained in good condition such that, when in place, they maintain contact with the rim for)~~ The cover must be in contact with at least 90% of the ~~(circumference of the)~~ rim of the vat~~(s)~~.

(~~(3) Lids~~) The cover may have a slit to allow clearance for insertion of a mixer shaft, provided that ~~the~~ slit ~~(shall be)~~ is covered after insertion of the mixer~~(, except to allow safe clearance for the mixer shaft).~~

(c) It shall be unlawful for any person to cause or allow the use of VOC-containing materials for vat cleaning unless the cleaning is done in a manner that minimizes VOC emissions (~~the emissions of VOCs~~).

WSR 96-09-070
PERMANENT RULES
GAMBLING COMMISSION

[Filed April 16, 1996, 11:12 a.m., effective July 1, 1996]

Date of Adoption: April 12, 1996.

Purpose: Housekeeping amendment.

Citation of Existing Rules Affected by this Order:
Amending WAC 230-04-204.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 96-05-043 on February 15, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 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: July 1, 1996.

April 15, 1996

Michael Aoki-Kramer
Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 94-23-007, filed 11/3/94, effective 1/1/95)

WAC 230-04-204 Fees—Individuals. Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. ((BINGO GAME)) CHARITABLE OR NONPROFIT GAMBLING MANAGER	Original	\$155
	Renewal	\$75
	Change of Employer	\$75
2. DISTRIBUTOR'S REPRESENTATIVE	Original	\$210
	Renewal	\$130
	Change of Employer	\$50
3. MANUFACTURER'S REPRESENTATIVE	Original	\$210
	Renewal	\$130
4. PUBLIC CARD ROOM EMPLOYEE	Original	\$155
	Renewal	\$75
5. OTHER FEES		
CHANGE OF NAME	(See WAC 230-04-310)	\$25
DUPLICATE LICENSE REPLACEMENT	(See WAC 230-04-290)	\$25
OUT-OF-STATE RECORDS INQUIRY	(See WAC 230-04-240)	As required

WSR 96-09-071
PERMANENT RULES
GAMBLING COMMISSION

[Filed April 16, 1996, 11:13 a.m., effective July 1, 1996]

Date of Adoption: April 12, 1996.

Purpose: Amendments to streamline and simplify the recreational gaming activity licensing process.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-120, 230-04-187, and 230-25-330.

Statutory Authority for Adoption: RCW 9.46.070 (4), (11), (14), (17), (20).

Adopted under notice filed as WSR 96-05-042 on February 15, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 3, 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 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: July 1, 1996.

April 15, 1996

Michael Aoki-Kramer
Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 95-19-071, filed 9/18/95, effective 1/1/96)

WAC 230-04-120 Licensing of distributors. Prior to selling, renting, or otherwise supplying gambling equipment, supplies, or related paraphernalia, including service of such, to any person within the state of Washington or for use within the state of Washington, a distributor shall first obtain a license from the commission. The following definitions and requirements apply to certification and licensing of distributors:

(1) For purposes of this title, a license is required to sell, rent, or otherwise provide to any person the following items and/or services:

- (a) Punchboards and pull tabs;
- (b) Devices for the dispensing of pull tabs;
- (c) Bingo equipment, as defined by WAC 230-02-250; ((and))
- (d) Any gambling equipment or paraphernalia for use in connection with licensed fund-raising events((;-)) or a recreational gaming ((activities, or Class III gaming activities)) activity; and
- (e) Organizing and conducting recreational gaming activities on behalf of persons as defined by WAC 230-02-505.

(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:

- (a) The full name and address of the applicant;
- (b) The business name and address of each location operated by the distributor or where records or inventory will be located;
- (c) The name, home address, and share of ownership of all owners of the business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;
- (d) A full description of each separate type of gambling equipment or related supplies that the distributor intends to market in this state or for use in this state;
- (e) The brand name under which each type of gambling equipment will be sold;

PERMANENT

(f) If the applicant does not maintain a business office within the state or is incorporated in another state or county, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and

(g) A list of all manufacturers of gambling equipment and all businesses or organizations located in the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purposes of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed distributor and indebtedness between any other person and the applicant, other than a regulated financial institution, in excess of five thousand dollars.

(3) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; or
- (ii) As a partner; or
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all licensed businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed for gambling-related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders of the applicant have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. In addition to other records requested, the following shall be available:

- (i) Personal financial records of all substantial interest holders;
- (ii) All records related to the scope of activity, including suppliers, customers, and any contracts related to sales or purchases; and
- (iii) Records related to any financial or management control of or by customers and suppliers.

(4) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form; and

(5) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

AMENDATORY SECTION (Amending Order 224, filed 7/17/91, effective 8/17/91)

WAC 230-04-187 Recreational gaming activity—Permit or license required. Any organization wanting to conduct or sponsor a recreational gaming activity must either:

(1) Complete the appropriate form and secure a recreational gaming permit from the commission at least fourteen days prior to commencement; or

(2) Contract with a licensed distributor to organize and conduct the recreational gaming activity on their behalf.

The fee for such activity or a distributor's license shall be ~~((fifty dollars per activity))~~ as required by WAC 230-04-202 or 230-04-203.

AMENDATORY SECTION (Amending WSR 95-12-051, filed 6/2/95, effective 7/3/95)

WAC 230-25-330 Recreational gaming activity—Rules for play. An organization, business, or association ~~((issued a permit))~~ shall conduct a recreational gaming activity in accordance with the following rules:

(1) Any gambling device utilized for such activity must be rented or obtained from a licensed distributor of fund-raising event equipment or a licensee authorized to conduct fund-raising events (not applicable to homemade, non-professional devices);

(2) Gambling of any type shall be prohibited on the premises where recreational gaming activity takes place;

(3) Scrip or chips having no value shall be utilized for each activity;

(4) There shall be no fee charged for the opportunity to participate or enter the premises~~((:))~~; ~~Provided((:—An organization may charge))~~, That a fee may be charged for an accompanying dinner, meal, or entertainment associated with the activity, as long as such a fee is only related to those additional activities and the costs incurred in renting the devices utilized in the activity;

(5) ~~((An organization may utilize))~~ A scheme may be utilized whereby participants can redeem their scrip or chips for prizes; Provided: All prizes must be donated to or provided by the sponsoring organization;

(6) The activity shall be limited to eight hours. The director may, for good cause shown, grant additional time;

(7) The sponsoring organization must notify local law enforcement officials at least ten days prior to the commencement of the activity, and specify the date, time, and location of the activity.

WSR 96-09-072

PERMANENT RULES

GAMBLING COMMISSION

[Filed April 16, 1996, 11:15 a.m., effective July 1, 1996]

Date of Adoption: April 12, 1996.

Purpose: To establish a time limit for filing cross appeals; extend time for replying to a petition for review from ten to thirty days; to create a separate subsection for final orders.

Citation of Existing Rules Affected by this Order:
Amending WAC 230-50-560.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 9.46.140, 9.46.070.

Adopted under notice filed as WSR 96-03-078 on January 17, 1996.

Changes Other than Editing from Proposed to Adopted Version: Changes clarify that any party may file a cross appeal and that the commission review a petition at a regularly scheduled meeting.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, amended 1, 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 1, 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: July 1, 1996.

April 15, 1996

Michael Aoki-Kramer

Rules and Policy Coordinator

AMENDATORY SECTION [(Amending WSR 90-13-022, filed 6/11/90)]

WAC 230-50-560 ~~((Adjudicated proceedings—))~~
Petition for review of an initial order—Replies to a petition for review, and cross appeals—
~~((Reconsideration—Final orders))~~ **When an initial order becomes a final order—Time limits and content requirements.** Any party to an adjudicative proceeding may file a petition for review of an initial order~~(-)~~ as follows:

(1) The petition for review shall be filed with the commission within twenty days of the date of service of the initial order unless a different place and time limit for filing the petition are specified in the initial order in its statement describing available procedures for administrative relief. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(2) The petition for review shall specify the portions of the initial order to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition.

(3) Any party may file a reply to a petition for review. The reply shall be filed with the office where the petition for review was filed within ~~((ten))~~ thirty days of the date of service of the petition and copies of the reply shall be served upon all other parties or their representatives at the time the reply is filed.

(4) ~~((At least a majority of))~~ **Any party may file a cross appeal. Cross appeals must be filed with the commission pursuant to WAC 230-50-210 within ten days of the date the petition for review of the initial order was filed with the commission. Copies of the cross appeal shall be served**

upon all other parties or their representatives at the time the cross appeal is filed.

(5) The commission ~~((members))~~ shall review the petition at a regularly scheduled meeting within 120 days after the petition was filed and thereafter render a final order in accordance with WAC 10-08-210.

~~((5) A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the commission in accordance with WAC 230-50-210 within ten days of the service of the final order. Such petition shall be administered in accordance with RCW 34.05.470.))~~

(6) An initial order issued by an administrative law judge or the commission shall become the final order in the proceedings unless A petition for ~~((reconsideration))~~ review is filed in accordance with the requirements of this rule.

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

NEW SECTION

WAC 230-50-562 Final orders—When and how to file a petition for reconsideration of a final order. Any party to an adjudicative proceeding may file a petition for reconsideration of a final order. A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the commission in accordance with WAC 230-50-210 within ten days of service of a final order. The petition for reconsideration shall be administered in accordance with RCW 34.05.470.

WSR 96-09-073

PERMANENT RULES

GAMBLING COMMISSION

[Filed April 16, 1996, 11:17 a.m., effective July 1, 1996]

Date of Adoption: April 12, 1996.

Purpose: To reinstate the authorization for licenses located on the Point Roberts Peninsula to deposit gambling receipts in a British Columbia branch of a Canadian bank.

Citation of Existing Rules Affected by this Order: Amending WAC 230-12-020.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8), (14).

Adopted under notice filed as WSR 96-04-085 on February 7, 1996.

Changes Other than Editing from Proposed to Adopted Version: Added requirements that licensee provide written authorization for commission to access records and that Canadian bank will honor the authorization.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1996.

April 15, 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: Provided further, That the licensee conducting the activities must provide the commission and its Canadian bank a written release for commission staff to have unrestricted access to the licensee's Canadian bank records and the Canadian bank must provide written confirmation of its intent to honor the licensee's release. 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 96-09-004
EMERGENCY RULES
EMPLOYMENT SECURITY DEPARTMENT
 [Filed April 4, 1996, 10:02 a.m.]

Date of Adoption: April 1, 1996.

Purpose: To administer state summer youth program.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Part of funding expires June 30, 1996. Implementation of the youth program is for the summer of 1996, and program needs are for the summer of 1996. Contracts must be in place in time to recruit youth before school gets out, because schools help document eligibility. Immediate adoption of rules is necessary in order to prevent impairment of the distribution of funds to program beneficiaries.

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 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 3, 1996
 Vernon E. Stoner
 Commissioner

Chapter 192-33
WORKFORCE DEVELOPMENT

NEW SECTION

WAC 192-33-001 Summer youth. (1) Administration. The department will administer the summer youth program by incorporating by reference existing federal code and regulations appropriate to accomplish the intent of Washington State Engrossed Substitute Senate Bill 6251, 1996.

(2) Use of funds. 29 U.S.C. 1501, Title II, Sec. 253 (a)(1), (2), and (3) is incorporated by reference.

(3) Allocations. 29 U.S.C. 1501, Title II, Sec. 262 (b) and (d) is incorporated by reference.

(4) Program Design. 29 U.S.C. 1501, Title II, Sec. 264(c) is incorporated by reference.

(5) Eligibility. 20 C.F.R., Part 628, Subpart G, 628.702 is incorporated by reference.

(6) Eligibility for Services. 29 U.S.C. 1501, Title II, Sec. 263 (e) and (g) is incorporated by reference.

(7) Definitions. 29 U.S.C. 1501, Title II, Sec. 4(24) and Sec. 202 (d)(1)(B); and 20 C.F.R., Part 627, Subpart B, 627.245(a) and Subpart G, 628.705 (c)(2) are each incorporated by reference.

(8) Reference. The laws, and regulations incorporated by reference in subsections (2), (3), (4), (5), (6), and (7) are located at all Service Delivery Areas and their subrecipients for public inspection and on request, from the Employment Security Department.

WSR 96-09-006
EMERGENCY RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
 [Filed April 4, 1996, 3:41 p.m.]

Date of Adoption: April 4, 1996.

Purpose: To effect interim rules stating the process and penalties for traffic infractions on the state capitol campus as the enforcement responsibilities for such infractions are transferred to the Washington State Patrol.

Citation of Existing Rules Affected by this Order: Repealing WAC 236-12-362; and amending WAC 236-12-015, 236-12-360, 236-12-361, 236-12-370, 236-12-371, and 236-12-351.

Statutory Authority for Adoption: RCW 46.08.150.

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 role of the Washington State Patrol in preserving the safety and accessibility of the state capitol campus for the general public and for state employees is essential. Traffic control and parking enforcement are an integral part of this role. These emergency rules clarify Washington State Patrol's authority to safeguard public health and safety through issuance of traffic infractions, and other enforcement mechanisms.

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 5, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 5, repealed 1.

Effective Date of Rule: Immediately.

April 4, 1996
Marygrace Jennings
Legislative Program Manager

AMENDATORY SECTION (Amending WSR 95-16-107, filed 8/1/95, effective 9/1/95)

WAC 236-12-015 Definitions. As used in this chapter, the following terms shall mean:

~~((1))~~ ~~("Barrel"/"barrelling" defined. A large cylindrical container that is attached to a motor vehicle in order to prevent movement of that motor vehicle.~~

~~((2))~~ ~~"Campus security patrol" defined. The Washington state patrol as provided under chapter 43.43 RCW.~~

~~((3))~~ "Director" defined. The director of the department of general administration.

~~((4))~~ ~~((2))~~ "Impound"/"impoundment" defined. To take and hold an unauthorized vehicle in legal custody at the direction of the director or designee, subject to the procedures outlined in this chapter and in chapter 46.55 RCW. Such definition includes towing of an unauthorized vehicle.

~~((5))~~ ~~((3))~~ "Presiding officer" defined. Pursuant to RCW 34.05.485, a "presiding officer" is an individual(s) who is appointed by the director to preside over administrative hearings and render a decision regarding the ~~((imposition of parking fees, barrelling of vehicles;))~~ suspension or revocation of parking privileges and removal, suspension, or revocation from parking waiting list under this chapter.

~~((6))~~ ~~((4))~~ "Reviewing officer" defined. Pursuant to RCW 34.05.491, a "reviewing officer" is an individual(s) who is appointed by the director to review the decisions by the presiding officer and is authorized to grant appropriate administrative relief upon review.

~~((7))~~ ~~((5))~~ "State capitol grounds" defined. Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

~~((8))~~ ~~((6))~~ "Unauthorized vehicle defined." An "unauthorized vehicle" is a vehicle which is parked for any length of time on state capitol grounds and:

(a) Does not display the permit required for that area; and/or

(b) Is not otherwise authorized to park in that area; and/or

(c) Is parked in a metered parking area for a consecutive period longer than the time permitted for parking in that area; and/or

(d) Is parked in a metered parking area with insufficient payment to use the space it occupies; and/or

(e) Is parked in a parking space designated for disabled individuals and such vehicle does not display a valid special license plate or placard; and/or

(f) Is parked in a parking space reserved for use by another vehicle; and/or

(g) Is parked in an area not designated for parking.

~~((9))~~ ~~((7))~~ "Vehicle" defined. All mechanical transportation devices defined as vehicles in the motor vehicle laws and of the state of Washington including motorcycles and motor-driven cycles.

~~((10))~~ ~~((8))~~ "Way open to the public defined." Any road, alley, lane, parking area, parking structure, path, or any place private or otherwise adapted to and fitted for travel that is in common use by the public with the consent expressed or implied of the owner or owners, and further shall mean public play grounds, school grounds, recreation grounds, parks, park ways, park drives, park paths.

~~((11))~~ ~~((9))~~ "Employee defined." Any person assigned to a state facility, including state employees and the staff of vendors, concessionaires, contractors and consultants, who are performing duties that are similar to the duties of state employees or that are in direct support of the state agency functions performed at the facility.

~~((12))~~ ~~((10))~~ "Disabled defined." Any person who has made application to the department of licensing in accordance with WAC 308-96A-310, and displays a valid permit in accordance with WAC 308-96A-310 and 308-96A-315.

~~((13))~~ ~~((11))~~ "Visitor defined." Any person parking at a state facility who is not employed at that facility.

AMENDATORY SECTION (Amending WSR 92-04-036, filed 1/30/92, effective 3/1/92)

WAC 236-12-351 Impoundment without prior notice. A vehicle may be impounded without prior notice having been made to notify the owner of the possibility of this action in the following circumstances:

(1) When in the judgment of the ~~((campus security))~~ Washington state patrol the vehicle is obstructing or may impede the flow of traffic; or

(2) When in the judgment of the ~~((campus security))~~ Washington state patrol the vehicle poses an immediate threat to public safety.

AMENDATORY SECTION (Amending WSR 95-16-107, filed 8/1/95, effective 9/1/95)

WAC 236-12-360 Parking ~~((fees, barrelling, and/or))~~ infractions and fines—Towing. Any unauthorized vehicle, as defined in this chapter, shall be ~~((subject to parking fees, barrelling, and/or towing, as described below;))~~ cited for a traffic infraction in accordance with RCW 46.08.170. Repeat offenders are those receiving more than three notices of traffic infractions within a twelve-month period. Repeat offenders are subject to towing in accordance with chapter 46.55 RCW.

~~((1))~~ For parking a ~~motor vehicle without~~ a valid special license plate or placard in a parking place reserved for physically disabled persons shall be: ~~\$175 parking fee, except that if a person produces the required special license plate or placard within 20 days of receiving the notice, the person shall not be determined to have committed an infraction.~~

(2) All other unauthorized vehicles:
First occurrence ~~_____~~ \$8.00 parking fee
Second occurrence within a 12-month period ~~_____~~ \$8.00 parking fee

EMERGENCY

~~Third occurrence within a 12-month period~~ ~~Vehicle barreled with \$50.00 removal charge and payment of all outstanding parking fees.~~

~~Fourth and subsequent occurrences within a 12-month period~~ ~~Vehicle may be immediately towed. Registered owner or authorized person must pay towing costs and all outstanding parking fees.)~~

AMENDATORY SECTION (Amending WSR 95-16-107, filed 8/1/95, effective 9/1/95)

WAC 236-12-361 Suspension and/or revocation of parking privileges. Repeated use of assigned parking spaces by unauthorized vehicles or for nonofficial purposes or for the storage of personal property and/or the repeated transfer of parking permits from one vehicle to another and/or being a repeat offender as defined in WAC 236-12-360 may result in the suspension or revocation of parking privileges. ~~((Fees for parking by unauthorized vehicles shall be paid within twenty days of notice or within ten days of final disposition of any appeals. Failure to pay within these periods))~~ Violations may result in suspension and/or revocation of any permits issued to the violator and/or removal, suspension, and/or revocation from the parking waiting list for parking on state capitol grounds.

AMENDATORY SECTION (Amending WSR 92-04-036, filed 1/30/92, effective 3/1/92)

WAC 236-12-370 Hearing rights—~~((Parking fees, barreling,))~~ **Suspension((s)) and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list.** Any person or entity seeking to contest ~~((an assessment of parking fees, barreling,))~~ suspension((s)) and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list has a right to a hearing to contest the validity of those ~~((fees or))~~ actions. Such request must be made in writing and received in the office of parking services within twenty days of the date of ~~((parking fee))~~ notice or effective date of action or such right to a hearing is forfeited. Hearing requests must be submitted to:

~~((Parking Enforcement))~~
Office of Parking Services
Department of General Administration
P.O. Box 41025
Olympia, WA 98504-1025

AMENDATORY SECTION (Amending WSR 92-04-036, filed 1/30/92, effective 3/1/92)

WAC 236-12-371 Hearing procedure—~~((Parking fees, barreling,))~~ **Suspension((s)) and/or revocation of parking privileges and removal, suspension, or revocation from parking waiting list.** (1) Contested hearings held pursuant to WAC 236-12-370 shall be conducted as brief

adjudicative proceedings according to RCW 34.05.482, 34.05.485, 34.05.488, 34.05.491 and 34.05.494.

(2) Upon receipt of a written request for a hearing, the presiding officer shall provide the contesting party an opportunity to be informed of the agency's view of the matter and an opportunity to explain the contesting party's view of the matter.

(3) Within ten days of this opportunity, the presiding officer shall serve upon the contesting party and the agency, a brief written statement of the reasons for the decision. Such statement shall include notice that the contesting party may request an agency administrative review of that decision. The contesting party must request such review either orally or in writing within twenty-one days of service of the written statement. Service is deemed to be completed upon deposit in the United States mail as evidenced by the postmark.

(4) If no agency review is so requested by the contesting party, the agency may, on its own motion, review the brief written statement of the presiding officer. Action less favorable to the contesting party may not be taken by the reviewing officer without notice to that party and an opportunity to explain that party's view of the matter.

(5) If no review is taken by the agency or by the contesting party, then the brief written statement of the presiding officer becomes the final order and no further administrative or judicial review is available.

(6) If review is requested, the reviewing officer shall give the contesting party and the agency an opportunity to present their respective views of the matter. Within twenty-one days of receipt of the request for review, the reviewing officer shall issue a final order which includes a brief statement of the reasons for the decision. The final order shall include notice of any judicial review available under the Administrative Procedure Act, chapter 34.05 RCW.

(7) Any of the time limits set forth in this hearing process may be waived by the contesting party.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 236-12-362 Parking fee and barrel removal payments for unauthorized vehicles—Method of payment.

WSR 96-09-007
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Order 96-07—Filed April 5, 1996, 8:35 a.m.]

Date of Adoption: April 5, 1996.

Purpose: To implement an emergency rule for the administration of flood control emergency funds.

Citation of Existing Rules Affected by this Order: Amending WAC 173-145-100.

Statutory Authority for Adoption: Chapter 86.26 RCW. Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Timely and equitable distribution of funds to repair or replace dikes and levees will protect lives and property, and improve the general welfare of the affected jurisdictions.

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 1, 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: Immediately.

April 5, 1996
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-100 Emergency fund administration.

~~((Funds shall be available for flood control projects in response to unusual, unforeseeable, and emergent flood conditions and shall be allocated in amounts adequate for the preservation of life and property. The following criteria shall be the basis of allocating the emergency funds:~~

~~(1) Appropriations from the FCAAP fund for emergency projects will require the declaration of an emergency by the appropriate local authority.~~

~~(2) Application for emergency funds must be made on the same form used for nonemergency fund applications.~~

~~(3) Payment of FCAAP funds for emergency projects will be based on project construction costs. Flood fighting costs may be included.~~

~~(4) Payment for emergency work shall be allocated on a first come first serve basis and shall not be based on any priority system.~~

~~(5) At the discretion of ecology, emergency funds may be made available for use on nonemergency projects.~~

~~(6) The maximum amount of emergency funds initially available for any one county is one hundred fifty thousand dollars per biennium. If the total available emergency funds are not needed by other counties and the amount of emergency funds needed in a county exceeds one hundred fifty thousand dollars the county can request additional emergency funds.~~

~~(7) The flood control assistance account contribution shall not exceed eighty percent of the eligible project cost of an emergency project.~~

~~(8) Emergency funds will only be made available to projects which have been given approval for matching funds by the department of ecology prior to construction work~~

~~being performed.)) The legislature has appropriated five million dollars for the repair or replacement of dikes and levees that were damaged in the November 1995 or February 1996 flood events. The following criteria shall be the basis for allocation of the funds:~~

~~(1) Local jurisdiction areas are eligible to apply for funding if all of the following criteria are met:~~

~~(a) The jurisdiction has been declared a major disaster area due to the November 1995 or February 1996 flood events;~~

~~(b) It is currently participating in the National Flood Insurance Program or agrees to meet state and federal requirements for joining the National Flood Insurance Program; and~~

~~(c) It has damaged dikes or levees.~~

~~(2) Funds will be allocated through a competitive application process. There is no limit on available funds per county, subject to the five million dollar appropriation.~~

~~(3) Applicants will use an expedited application form, to be provided by ecology.~~

~~(a) All local jurisdictions will submit applications directly to ecology.~~

~~(b) Diking districts or municipal corporations must submit applications through the appropriate local authority.~~

~~(c) County engineers will not be required to submit a prioritized list for proposed projects in their county. However, county engineers are encouraged to make recommendations to ecology on the priority of projects within their counties.~~

~~(4) The amount of FCAAP funding for any project shall not exceed eighty percent of the total eligible project cost.~~

~~(5) Ecology will consider funding projects that are alternatives to the repair or replacement of dikes or levees where there are benefits to public safety and property. All alternative projects must be proposed by the appropriate local jurisdiction. Ecology will coordinate with the Inter-agency Levee Task Force in the assessment of alternative projects.~~

WSR 96-09-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 96-27—Filed April 11, 1996, 4:17 p.m., effective April 16, 1996, 12:01 a.m.]

Date of Adoption: April 11, 1996.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-69-240, 220-88A-070, 220-88A-080, and 220-52-075.

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: The harvest management plan for joint management of Puget Sound (excluding Hood

Canal) Pandalid shrimp under Subproceeding 89-3 of *United States v. Washington* provides for regional harvest shares. These rules are necessary to ensure that the harvest shares are not exceeded.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, amended 0, repealed 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: April 16, 1996, 12:01 a.m.

April 11, 1996

Ed Manary
for Robert Turner
Director

NEW SECTION

WAC 220-52-07500A Shellfish harvest logs. Notwithstanding the provisions of WAC 220-52-075, effective April 16, 1996, until further notice vessel operators engaged in Puget Sound commercial harvest of shrimp with beam trawl gear must record the vessel identity, date, location fished, trawl width, Marine Fish/Shellfish Catch Reporting Area, depth fished, latitude and longitude to the nearest tenth of a minute, or to the nearest second, at the beginning and end of each tow, tow speed, duration of tow, and estimated weight of shrimp of each species caught for each tow before leaving the catch area where taken.

NEW SECTION

WAC 220-69-24000C Duties of commercial purchasers and receivers. Notwithstanding the provisions of WAC 220-69-240, effective April 16, 1996, until further notice:

(1) It is unlawful for any wholesale dealer purchasing Puget Sound Pandalid shrimp caught using shellfish pot gear to fail to report to the Department of each day's purchase by 10:00 a.m. the following morning. Either of the following two methods of reporting is acceptable:

(a) By facsimile (FAX) transmission to (360) 796-4997,

or

(b) By telephone call to (360) 796-3267, extension 800.

(2) It is unlawful for any wholesale dealer purchasing Puget Sound pandalid shrimp caught using beam trawl gear to fail to report to the Department of each preceding week's purchase by 10:00 a.m. on the Monday following each week the season is open. Either of the following two methods of reporting is acceptable:

(a) By facsimile (FAX) transmission to (360) 796-4997,

or

(b) By telephone call to (360) 796-3267, extension 800.

(3) All reports must specify the total number of pounds caught by gear type, Marine Fish/Shellfish Catch Reporting area, and species.

(4) The fish receiving ticket reporting requirements of WAC 220-69-240 remain in effect.

NEW SECTION

WAC 220-88A-07000C Emerging commercial fishery - Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restriction. Notwithstanding the provisions of WAC 220-88A-070, effective April 16, 1996, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) Seasons - All waters of Puget Sound are open to shellfish pot gear April 16, 1996 until further notice, except:

(a) Open in Shrimp District 2 (Griffin Bay) from May 16, 1996 until further notice.

(b) Closed in Shrimp Districts 1, 3, 4, 5, and 6 unless opened by emergency regulation.

(c) Open in the waters of Lopez Sound south of a line projected east and west from the northern tip of Trump Island, from July 10, 1996 until further notice.

(d) Closed in the waters of Marine Fish Shellfish Catch Area 24C inshore of the 42 fathom depth contour from Onamac Point, Camano Island to Sunset Beach Camano Island.

(e) Closed in the waters of Marine Fish Shellfish Catch Area 26A within a two nautical mile radius of the number 1 bell buoy at Possession Point.

NEW SECTION

WAC 220-88A-08000B Emerging commercial fishery—Puget Sound shrimp beam trawl experimental fishery—Seasons and gear. Notwithstanding the provisions of WAC 220-88A-080, effective April 16, 1996, until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound using beam trawl gear except as provided for in this section:

(1) Seasons - Open in Marine Fish/Shellfish Management Catch Reporting Areas 20A, 20B, 22A, 23A, 23B, 23C, 23D, 25A, 25B and 29, from April 16, 1996 until further notice, except:

(a) Open in the waters of Lopez Sound (22A) south of a line projected east and west from the northern tip of Trump Island, from July 10, 1996 until further notice.

(b) Closed in Marine Fish/Shellfish Management and Catch Reporting Area 20A in waters less than 60 fathoms deep, and no trawling is allowed from April 16, 1996 through July 15, 1996.

(c) Trawling is prohibited in waters less than 100 feet deep.

(d) Trawling is prohibited in Shrimp Districts.

(2) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

(a) Maximum beam width in Marine Fish/Shellfish Catch Reporting Areas 20A, 20B, and 22A is 25 feet.

(b) Maximum beam width in Marine Fish/Shellfish Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, 25B, and 29 is 60 feet.

WSR 96-09-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 96-28—Filed April 11, 1996, 4:20 p.m., effective April 13, 1996, 12:01 a.m.]

Date of Adoption: April 11, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

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: A six-inch minimum size limit will reduce harvest of immature spot shrimp in areas of mixed species harvest, thus helping to ensure for spawning in future years and improving yield.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 13, 1996, 12:01 a.m.

April 11, 1996

Ed Manary
for Robert Turner
Director

NEW SECTION

WAC 220-56-32500E Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325, effective 12:01 a.m. April 13, 1996 until further notice:

(1) It is unlawful to possess spot shrimp taken for personal use from Catch Record Card Areas 4 through 13 (Puget Sound east of Cape Flattery, except for Area 12) that are less than 6 inches in length.

(2) It is unlawful to land spot shrimp that are less than 6 inches in length in any port except Hood Canal, the Columbia River, Grays Harbor, Willapa Bay or the Pacific Ocean.

(3) The length of spot shrimp is measured from the tip of the rostrum to the tip of the tail.

WSR 96-09-056
EMERGENCY RULES
DEPARTMENT OF LICENSING
 [Filed April 12, 1996, 10:34 a.m.]

Date of Adoption: April 12, 1996.

Purpose: To adopt rules to carry out the purposes of chapter 19.138 RCW.

Statutory Authority for Adoption: RCW 19.138.170 and RCW 43.24.086.

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: Chapter 145, Laws of 1996 which amends chapter 19.138 RCW and revises the program for the registration of sellers of travel and becomes effective immediately on March 28, 1996. Rules must be in place to implement the revised registration procedure by the Department of Licensing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 5, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 5, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 5, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 12, 1996

Linda Bremer
Assistant Director

GENERAL

NEW SECTION

WAC 308-129-011 Organization. The sellers of travel program of the Department of Licensing administers the Washington Sellers of Travel Registration Act, chapter 19.138 RCW. Information regarding sellers of travel registrations or the sellers of travel program may be obtained by writing to the Program Manager, Sellers of Travel Program, Department of Licensing, P.O. Box 9045, Olympia, Washington 98507.

NEW SECTION

WAC 308-129-021 Definitions. (1) "Registration number" means the unified business identifier number (UBI) assigned to the registered seller of travel.

(2) "Main office" means the first registered business location for a seller of travel.

(3) "Branch office" means each additional business location for a seller of travel after the first location has been registered.

(4) "Other approved account" means (a) bank administered account; (b) account pursuant to other state law; (c) checking account; (d) savings account; (e) an account individually approved of by the department.

NEW SECTION

WAC 308-129-031 Registration. Registration as a seller of travel will be accomplished through the master license system under chapter 19.02 RCW. The fees established by or under chapter 19.138 RCW for registering as a seller of travel shall be paid to the Department of Licensing concurrently with an application for a master license or with the annual renewal of a master license under chapter 19.02 RCW.

NEW SECTION

WAC 308-129-101 Applications—Conditions. Any person desiring to be registered as a seller of travel shall submit with the application form:

(1) In lieu of the CPA/LPA/bank officer report required by RCW 19.138.110(5), an applicant may submit an affidavit or declaration signed under penalty of perjury setting out the information required by RCW 19.138.110(5).

(2) Applicants who certify under penalty of perjury that they do not hold for more than five business days any non-exempt funds received from any person or entity for retail travel services shall not be required to report or maintain a trust account or other approved account under RCW 19.138-110(5).

NEW SECTION

WAC 308-129-111 Seller of travel registration fees. The following fees shall be charged by the business and professions division of the Department of Licensing during the emergency implementation of Chapter 145, laws of 1996.

Title of Fee	Fee
Registration Fee	\$150.00
Branch office registration fee	25.00
Service of process fee	20.00

**WSR 96-09-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 96-29—Filed April 15, 1996, 3:00 p.m., effective April 16, 1996, 12:01 a.m.]

Date of Adoption: April 15, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-56-191.

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: The United States and Canada have failed to reach agreement on 1996 fishing schedules under terms of the treaty, and we must assume Canada will harvest 1.46 million coho in their west coast Vancouver Island fishery. At that harvest level there will be no harvestable coho available in the straits this year, outside of a limited fishery in Dungeness Bay for hatchery origin coho. Skagit River spring chinook are predicted to be far below goal this year, and the closure of Catch Record Card Area 8-1 is necessary to provide increased protection for this depressed stock.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 16, 1996, 12:01 a.m.

April 15, 1996

Edward P. Manary
for Robert Turner
Director

NEW SECTION

WAC 220-56-19100Q Puget Sound salmon—Saltwater seasons. Notwithstanding the provisions of WAC 220-56-191, effective 12:01 a.m. April 16, 1996, until further notice:

(1) It is unlawful to fish for or possess coho salmon taken for personal use from those waters of Puget Sound Salmon Management and Catch Reporting Areas 5 and 6.

(2) It is unlawful to fish for or possess salmon taken for personal use from those waters of Puget Sound Salmon Management and Catch Reporting Area 8-1.

**WSR 96-09-075
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3966—Filed April 16, 1996, 1:20 p.m.]

Date of Adoption: April 16, 1996.

EMERGENCY

Purpose: This change is a correction to the current WAC. The GA-U earned income disregard was erroneously included in the WAC during the rewrite process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-219-3000 GAU allocation of income.

Statutory Authority for Adoption: RCW 74.08.090.

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: Emergency adoption of this rule is needed for accurate programming and implementation of the ACES project. ACES is programmed according to WAC rule, as it applies to procedure. This change needs to be made immediately to allow that agreement.

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 1, repealed 0.

Effective Date of Rule: Immediately.

April 16, 1996

Merry A. Kogut, Supervisor
Rules and Policies Assistance Unit

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

WAC 388-219-3000 GAU allocation of income. The department shall allocate nonexempt net income to the assistance unit of which the person is a member, except when:

(1) The family contains two or more assistance units. In such case, the department shall equally divide the total nonexempt net community income between the assistance units unless:

(a) The family prefers some other division; and
(b) The preferred division does not increase the total amount of assistance, excluding medical care.

(2) The person lives with a nonapplying spouse. In such case, the department shall consider the following available to the client:

(a) The nonapplying spouse's net income from wages, retirement benefits, or separate property to the extent that such income exceeds a one-person payment level. In computing the nonapplying spouse's net income, the department shall allow:

(i) GAU (~~earned income and~~) work expense disregards; and

(ii) Verified court or administratively ordered support payments made by the nonapplying spouse for legal dependents not living in the parent's home. The amount exempted shall be the amount paid up to the one person need standard for each such dependent. The department shall not apply the GAU earned income disregard to the spousal income computation.

(b) All the client's net income from wages, retirement benefits, or separate property; and

(c) Half of all other community income.

(3) The person is in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. When a person in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home applies for or receives a general assistance grant, the department shall allocate income as follows:

(a) First to the appropriate payment level of the legal dependents in the family home as stated in chapter 388-250 WAC; and

(b) Then to the needs of the person according to the standards of assistance for each living arrangement.

(4) The person pays court or administratively ordered support for a legal dependent not living in the parent's home. In such case, the department shall allocate income to the assistance unit after deducting:

(a) Applicable earned income and work expense disregards; and

(b) Verified court or administratively ordered support payments made for a legal dependent not living in the parent's home. The amount exempted shall be the amount paid up to the one-person need standard for each legal dependent.

WSR 96-09-011
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—April 5, 1996]

BOARD OF TRUSTEES
April 5, 1996, 9:00 a.m.
Cheney Campus
Pence Union Building
Room 263-65

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the PUB boardroom.

Please Note: Richie Gibbs and his staff will conduct, at the request of the board, a tour of the new library construction and Sutton Hall.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

DATE: Tuesday, May 14, 1996
TIME: 1:30
LOCATION: Bellevue Regional Library
Meeting Room #1
1111 110th Avenue N.E.
Bellevue, WA

WASHINGTON STATE LIBRARY COMMISSION WORKSHOP

DATE: Wednesday, May 15, 1996
TIME: 10:00 a.m.
LOCATION: Bellevue Regional Library
Meeting Room #4
1111 110th Avenue N.E.
Bellevue, WA

For additional information, please do not hesitate to contact Cathy M. Stussy at (360) 753-2914, FAX (360) 586-7575 or e-mail cstussy@wln.com.

WSR 96-09-012
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES
[Memorandum—March 29, 1996]

The Seattle Community College District board of trustees will hold a work session on Tuesday, April 2, 1996, at 5:00 p.m., prior to the regular meeting at 6:00 p.m.

The work session will be held in Conference Room 1, and the regular meeting will be held in the Cedar Room, at the Battelle Conference Center, 4000 N.E. 41st Street, Seattle, WA 98105-5428.

WSR 96-09-020
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
[Memorandum—April 1, 1996]

NOTICE OF MEETING LOCATION CHANGE

The Public Works Board Meeting scheduled for 9:00 a.m., May 16, 1996, will be held at the Holiday Inn of Yakima, in Yakima, Washington.

The meeting will include an inspection of projects funded by the public works trust fund, and the Community Economic Revitalization Board.

WSR 96-09-014
NOTICE OF PUBLIC MEETINGS
PUBLIC DISCLOSURE COMMISSION
[Memorandum—April 5, 1996]

The Public Disclosure Commission has cancelled its regular meeting scheduled for Tuesday, April 23, 1996. Special meetings will be held on Tuesday, April 30, and Wednesday, May 1, 1996. Both meetings will be held in the Department of Personnel Board Room, 521 Capitol Way, Olympia, WA.

WSR 96-09-021
RULES COORDINATOR
JOINT CENTER FOR
HIGHER EDUCATION
[Filed April 8, 1996, 1:40 p.m.]

This is to inform you that the Joint Center for Higher Education rules coordinator is Terry L. Novak, Ph.D., Executive Director, Joint Center for Higher Education, 665 North Riverpoint Boulevard, Spokane, WA 99202-1665.

Terry L. Novak, Ph.D.
Executive Director

MISCELLANEOUS

WSR 96-09-019
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
(Library Commission)
[Memorandum—April 5, 1996]

The Washington State Library Commission will hold the following meetings as listed below:

WASHINGTON STATE LIBRARY (WSL) COMMISSION AND WASHINGTON STATE ADVISORY COUNCIL ON LIBRARIES (WSACL) JOINT MEETING

WSR 96-09-022
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
[Memorandum—April 5, 1996]

MEETING NOTICE FOR APRIL 1996
TRANSPORTATION IMPROVEMENT BOARD
OLYMPIA, WASHINGTON 98504-0901

Legislative Subcommittee, 10:00 a.m. - 11:00 a.m., Thursday, April 25, 1996, at the Mark 205, 221 N.E. Chkalov Drive, Vancouver.

Increase Subcommittee, 11:00 a.m. - 12:00 p.m., Thursday, April 25, 1996, at the Mark 205 Motor Inn.

Bus Tour of Vancouver/Clark County projects, 1:00 p.m. - 4:00 p.m., Thursday, April 25, 1996 (meet at the Mark 205).

Program Briefings, 4:00 p.m. - 6:00 p.m., Thursday, April 25, 1996, at the Mark 205.

Work Session, 7:00 p.m., Thursday, April 25, 1996, at the Mark 205.

Board Meeting, 9:00 a.m., Friday, April 26, 1996, at the Water Resources Education Center, 4600 S.E. Columbia Way, Vancouver.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the Transportation Improvement Board office at (360) 705-7300 by April 15, 1996.

The next scheduled meeting is May 24, 1996, in Wenatchee. A notice with further detail of the May meeting will be mailed May 3, 1996.

WSR 96-09-024
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Red Raspberry Commission)
 [Memorandum—April 5, 1996]

The Washington Red Raspberry Commission's board meeting schedule has changed. The meeting originally scheduled for April 24 will instead take place May 3. It will be held at the Bellingham Cruise Terminal beginning at 10:00 a.m.

WSR 96-09-028
NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Memorandum—April 9, 1996]

The following is a schedule of the 1996 regular meeting of the Public Employment Relations Commission, as adopted by the commission:

DATE	LOCATION
April 15	Olympia
May 20	Olympia
June 17	Kirkland
July 15	Olympia
August 19	Kirkland
September 16	Olympia
October 21	Kirkland
November 18	Olympia
December 16	Kirkland

All meetings begin at 1:30 p.m. Meetings held from January through May of 1996 will be held in the Second Floor Conference Room of the Evergreen Plaza Building, 711 Capitol Way, Olympia, WA.

Meetings scheduled for Kirkland will be held in the Kirkland office of the Public Employment Relations Commission, 9757 Juanita Drive N.E.

Following due notice, some meetings may be rescheduled or relocated.

Meeting sites are barrier free to the greatest extent possible. Braille or taped agenda items for visually impaired persons, and interpreters for individuals with hearing impairment will be provided if requested with adequate notice. Such requests should be made at least ten working days in advance of the scheduled meeting date, and should be addressed to: Public Employment Relations Commission, P.O. Box 40919, Olympia, WA 98504-0919.

WSR 96-09-045
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—April 10, 1996]

The Design Committee of the Washington State Convention and Trade Center (WSCTC) will meet on Wednesday, April 17 from 10:30 a.m. - 1:15 p.m. in Room 303 of the Convention Center, 800 Convention Place, Seattle, WA.

A regular meeting of the Washington State Convention and Trade Center Board of Directors will also be held on Wednesday, April 17 at 1:30 p.m. in Room 303 of the Convention Center.

The Washington State Convention and Trade Center Art Committee will meet on Monday, April 22 at 11:30 a.m. at the Convention Center.

If you have any questions regarding these meetings, please call 447-5000.

WSR 96-09-051
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—April 11, 1996]

WASHINGTON STATE
 WORKFORCE TRAINING AND
 EDUCATION COORDINATING BOARD
 MEETING NO. 45
 MAY 2, 1996

GRAYS HARBOR COLLEGE
 LIBRARY ROOM #1512
 1520 EDWARD P. SMITH DRIVE
 ABERDEEN, WA 98520
 (360) 532-9020

May 1, 1996, 6:00 p.m., Dinner, Bridges Restaurant, 112 North G Street, Aberdeen, the Workforce Training and Education Coordinating Board members will hold a dinner meeting with Workforce Training and Education Coordinating Board staff, and guests from Aberdeen who are engaged in workforce development. No action will be taken at this meeting.

May 2, 1996, Grays Harbor College, 8:00 a.m. - 4:00 p.m., the Workforce Training and Education Coordinating Board will hold its regular business meeting on Thursday, May 2, beginning at 8:00 a.m. The meeting will be held in the library, at Grays Harbor College, Aberdeen, Washington.

MISCELLANEOUS

Agenda items will include a report on the Washington Award for Vocational Excellence, a discussion of programs goals and indicators for Performance Management for Continuous Improvement, Office of Superintendent of Public Instruction data improvements, and the extension of the current Carl D. Perkins two-year plan. The board will also explore issues to be addressed in the 1996 update to "High Skills, High Wages," by hearing from leading practitioners in the state, discuss emphasis for its public awareness work, and will review principles to guide its review of agency biennial budget submissions.

People needing special accommodations, please call Anne Townsend at least ten days in advance at (206) [(360)] 753-5677 or SCAN 234-5677.

WSR 96-09-052
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE
HISTORICAL SOCIETY
[Memorandum—April 11, 1996]

The 1996 schedule of meetings as submitted on November 28, 1995, has been changed. The revised schedule is as follows:

February 19, 1996	Olympia
May 17, 1996	Tacoma
August 9, 1996	Tacoma
November 15, 1996	Tacoma

WSR 96-09-060
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—April 15, 1996]

Board of Trustees Meeting

April 16, 1996
Sno-King Building
Boardroom 103
4:30 - 6:10

An executive session maybe held for any of those items for which an executive session may be held under the Open Public Meetings Act.

Action items as necessary in the discretion of the board as a result of any item properly considered in executive session.

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 96-09-061
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
[Memorandum—April 12, 1996]

The board of trustees of Community College District 24 will hold a special meeting of the board on Friday, April 19, 1996, 8:00 a.m. to 4:00 p.m., in Room 201, of the Holiday Inn Select, 2300 Evergreen Park Drive S.W., Olympia, WA, for the purpose of their annual board retreat.

WSR 96-09-062
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
[Memorandum—April 12, 1996]

At their April 11, 1996, meeting, the board of trustees of Community College District 24 changed the May 2, 1996, board meeting to Tuesday, May 7, 1996, beginning at 3:00 p.m. to be held in the boardroom of Building 25 on our campus.

WSR 96-09-085
RULES COORDINATOR
INDETERMINATE SENTENCE
REVIEW BOARD
[Filed April 16, 1996, 3:55 p.m.]

Pursuant to RCW 34.05.310, please be advised that the designated rule coordinator for this agency is Dennis Marsh, Executive Secretary, Indeterminate Sentence Review Board, P.O. Box 40907, Olympia, WA 98504-0907.

Kathryn S. Bail
Chair

WSR 96-09-096
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
JUDICIAL CONDUCT
[Memorandum—April 16, 1996]

NOTICE OF SPECIAL MEETING

A meeting of the rules subcommittee of the Commission on Judicial Conduct will be conducted beginning at 6:00 p.m., Thursday, May 2, 1996, at the Sea-Tac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188.

The business to be transacted is the discussion of (1) comments to the proposed procedural rules, chapter 292-06 WAC; (2) recommended changes to the proposed rules; (3) discussion of further recommendations to the commission concerning future proceedings and hearings; and (4) discussion of further recommendations to the commission to receive further input.

MISCELLANEOUS



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-25-530	PREP	96-05-081	16-168-060	NEW	96-09-037	44-10-110	AMD	96-03-155
4-25-530	AMD-P	96-09-065	16-168-070	NEW-P	96-05-027	44-10-120	AMD	96-03-155
4-25-722	PREP	96-05-082	16-168-070	NEW	96-09-037	44-10-130	AMD	96-03-155
4-25-722	AMD-P	96-09-064	16-168-080	NEW-P	96-05-027	44-10-140	AMD	96-03-155
4-25-750	PREP	96-05-083	16-168-080	NEW	96-09-037	44-10-150	AMD	96-03-155
4-25-750	AMD-P	96-09-066	16-168-090	NEW-P	96-05-027	44-10-160	AMD	96-03-155
4-25-810	PREP	96-05-084	16-168-090	NEW	96-09-037	44-10-165	REP	96-03-155
16-06-010	REP-P	96-06-082	16-168-100	NEW-P	96-05-027	44-10-170	AMD	96-03-155
16-06-020	REP-P	96-06-082	16-168-100	NEW	96-09-037	44-10-180	AMD	96-03-155
16-06-030	REP-P	96-06-082	16-300-010	AMD	96-04-058	44-10-200	AMD	96-03-155
16-06-040	REP-P	96-06-082	16-304-110	AMD-P	96-09-091	44-10-210	AMD	96-03-155
16-06-050	REP-P	96-06-082	16-304-130	AMD-P	96-09-091	44-10-220	REP	96-03-155
16-06-060	REP-P	96-06-082	16-316	PREP	96-07-085	44-10-221	NEW	96-03-155
16-06-070	REP-P	96-06-082	16-316	PREP	96-07-086	44-10-222	NEW	96-03-155
16-06-080	REP-P	96-06-082	16-316-280	AMD-P	96-07-087	44-10-223	NEW	96-03-155
16-06-090	REP-P	96-06-082	16-316-327	AMD-P	96-07-087	44-10-230	REP	96-03-155
16-06-100	REP-P	96-06-082	16-319-041	AMD-P	96-03-065	44-10-300	AMD	96-03-155
16-06-110	REP-P	96-06-082	16-400-040	AMD-P	96-05-071	44-10-310	AMD	96-03-155
16-06-120	REP-P	96-06-082	16-400-100	AMD-P	96-05-071	44-10-320	REP	96-03-155
16-06-130	REP-P	96-06-082	16-400-210	AMD-P	96-05-071	50-20-100	AMD	96-04-013
16-06-140	REP-P	96-06-082	16-409-020	PREP	96-09-090	50-20-100	DECOD	96-04-013
16-06-150	NEW-P	96-06-082	16-409-030	PREP	96-09-090	50-20-110	AMD	96-04-013
16-06-155	NEW-P	96-06-082	16-409-060	PREP	96-09-090	50-20-110	DECOD	96-04-013
16-06-160	NEW-P	96-06-082	16-409-065	PREP	96-09-090	50-20-120	AMD	96-04-013
16-06-165	NEW-P	96-06-082	16-529-150	AMD	96-03-151	50-20-120	DECOD	96-04-013
16-06-170	NEW-P	96-06-082	16-532-010	AMD-P	96-05-086	50-20-130	AMD	96-04-013
16-06-175	NEW-P	96-06-082	16-532-040	PREP	96-02-082	50-20-130	DECOD	96-04-013
16-06-180	NEW-P	96-06-082	16-532-0402	NEW-P	96-05-086	50-20-140	AMD	96-04-013
16-06-185	NEW-P	96-06-082	16-532-0404	NEW-P	96-05-086	50-20-140	DECOD	96-04-013
16-06-190	NEW-P	96-06-082	16-532-0406	NEW-P	96-05-086	50-20-150	AMD	96-04-013
16-06-195	NEW-P	96-06-082	16-532-0408	NEW-P	96-05-086	50-20-150	DECOD	96-04-013
16-06-200	NEW-P	96-06-082	16-532-0410	NEW-P	96-05-086	50-20-160	AMD	96-04-013
16-06-205	NEW-P	96-06-082	16-532-0412	NEW-P	96-05-086	50-20-160	DECOD	96-04-013
16-06-210	NEW-P	96-06-082	16-532-0414	NEW-P	96-05-086	50-20-170	REP	96-04-013
16-06-215	NEW-P	96-06-082	16-540-040	AMD	96-03-150	50-20-180	DECOD	96-04-013
16-06-220	NEW-P	96-06-082	16-560-06001	AMD	96-07-054	50-20-190	AMD	96-04-013
16-06-225	NEW-P	96-06-082	16-750	AMD-C	96-03-093	50-20-190	DECOD	96-04-013
16-06-230	NEW-P	96-06-082	16-750-005	AMD	96-06-030	50-20-200	REP	96-04-013
16-06-235	NEW-P	96-06-082	16-750-011	AMD	96-06-030	50-30-005	NEW	96-03-059
16-156	PREP	96-08-074	16-750-015	AMD	96-06-030	50-30-005	DECOD	96-03-059
16-168-010	NEW-P	96-05-027	44-10-010	AMD	96-03-155	50-30-010	AMD	96-03-059
16-168-010	NEW	96-09-037	44-10-020	NEW	96-03-155	50-30-010	DECOD	96-03-059
16-168-020	NEW-P	96-05-027	44-10-030	AMD	96-03-155	50-30-015	NEW	96-03-059
16-168-020	NEW	96-09-037	44-10-031	NEW	96-03-155	50-30-015	DECOD	96-03-059
16-168-030	NEW-P	96-05-027	44-10-040	AMD	96-03-155	50-30-020	AMD	96-03-059
16-168-030	NEW	96-09-037	44-10-050	AMD	96-03-155	50-30-020	DECOD	96-03-059
16-168-040	NEW-P	96-05-027	44-10-060	AMD	96-03-155	50-30-025	NEW	96-03-059
16-168-040	NEW	96-09-037	44-10-070	AMD	96-03-155	50-30-025	DECOD	96-03-059
16-168-050	NEW-P	96-05-027	44-10-080	AMD	96-03-155	50-30-030	AMD	96-03-059
16-168-050	NEW	96-09-037	44-10-090	AMD	96-03-155	50-30-030	DECOD	96-03-059
16-168-060	NEW-P	96-05-027	44-10-100	AMD	96-03-155	50-30-035	NEW	96-03-059

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
50-30-035	DECOD	96-03-059	55-01-030	REP-P	96-09-102	132Z-310-030	NEW-P	96-09-074
50-30-040	AMD	96-03-059	55-01-040	AMD-E	96-03-104	132Z-310-040	NEW-P	96-09-074
50-30-040	DECOD	96-03-059	55-01-040	REP-P	96-09-102	132Z-325-010	NEW-P	96-09-074
50-30-050	AMD	96-03-059	55-01-050	AMD-E	96-03-104	137-08	PREP	96-07-099
50-30-050	DECOD	96-03-059	55-01-050	REP-P	96-09-102	139-01-810	AMD-P	96-03-025
50-30-060	AMD	96-03-059	55-01-060	AMD-E	96-03-104	139-01-810	AMD	96-08-008
50-30-060	DECOD	96-03-059	55-01-060	REP-P	96-09-102	154	PREP	96-06-079
50-30-065	NEW	96-03-059	55-01-070	AMD-E	96-03-104	162-04	PREP	96-02-081
50-30-065	DECOD	96-03-059	55-01-070	REP-P	96-09-102	162-08	PREP	96-02-081
50-30-068	NEW	96-03-059	67-35-910	AMD-P	96-08-026	162-08-061	AMD-P	96-06-087
50-30-068	DECOD	96-03-059	82-05-010	NEW	96-03-048	162-08-062	AMD-P	96-06-087
50-30-070	AMD	96-03-059	82-05-020	NEW	96-03-048	162-08-071	AMD-P	96-06-087
50-30-070	DECOD	96-03-059	82-05-030	NEW	96-03-048	162-08-072	AMD-P	96-06-087
50-30-075	NEW	96-03-059	82-05-040	NEW	96-03-048	162-08-093	AMD-P	96-06-087
50-30-075	DECOD	96-03-059	82-05-050	NEW	96-03-048	162-08-094	AMD-P	96-06-087
50-30-080	AMD	96-03-059	131-28-026	AMD	96-03-049	162-08-09401	NEW-P	96-06-087
50-30-080	DECOD	96-03-059	132N-276	PREP	96-03-101	162-08-099	AMD-P	96-06-087
50-30-085	NEW	96-03-059	132N-276-005	AMD-P	96-07-029	162-08-102	AMD-P	96-06-087
50-30-085	DECOD	96-03-059	132N-276-010	AMD-P	96-07-029	162-08-104	AMD-P	96-06-087
50-30-090	AMD	96-03-059	132N-276-020	AMD-P	96-07-029	162-08-106	AMD-P	96-06-087
50-30-090	DECOD	96-03-059	132N-276-030	AMD-P	96-07-029	162-08-107	NEW-P	96-06-087
50-30-095	NEW	96-03-059	132N-276-040	AMD-P	96-07-029	162-08-261	AMD-P	96-06-087
50-30-095	DECOD	96-03-059	132N-276-050	AMD-P	96-07-029	162-08-268	AMD-P	96-06-087
50-30-100	AMD	96-03-059	132N-276-060	AMD-P	96-07-029	162-08-288	AMD-P	96-06-087
50-30-100	DECOD	96-03-059	132N-276-070	AMD-P	96-07-029	162-08-298	AMD-P	96-06-087
50-30-110	REP	96-03-059	132N-276-080	AMD-P	96-07-029	162-08-305	AMD-P	96-06-087
50-44-020	AMD	96-04-022	132N-276-090	AMD-P	96-07-029	162-12-100	AMD-P	96-08-055
50-44-025	NEW	96-04-022	132N-276-100	AMD-P	96-07-029	162-12-110	REP-P	96-08-055
50-60-010	DECOD	96-04-028	132N-276-110	AMD-P	96-07-029	162-12-120	AMD-P	96-08-055
50-60-020	DECOD	96-04-028	132N-276-120	AMD-P	96-07-029	162-12-130	AMD-P	96-08-055
50-60-030	DECOD	96-04-028	132N-276-130	AMD-P	96-07-029	162-12-135	AMD-P	96-08-055
50-60-035	DECOD	96-04-028	132N-276-140	AMD-P	96-07-029	162-12-140	AMD-P	96-08-055
50-60-040	DECOD	96-04-028	132N-276-150	AMD-P	96-07-029	162-12-150	AMD-P	96-08-055
50-60-042	DECOD	96-04-028	132V-11	PREP	96-09-050	162-12-160	AMD-P	96-08-055
50-60-045	DECOD	96-04-028	132V-15	PREP	96-09-050A	162-12-170	AMD-P	96-08-055
50-60-050	DECOD	96-04-028	132V-24	PREP	96-09-050B	162-12-180	AMD-P	96-08-055
50-60-060	DECOD	96-04-028	132V-130	PREP	96-09-050C	162-22	AMD-P	96-08-055
50-60-070	DECOD	96-04-028	132Z-104-010	NEW-P	96-09-074	162-22-010	AMD-P	96-08-055
50-60-080	DECOD	96-04-028	132Z-104-020	NEW-P	96-09-074	162-22-020	AMD-P	96-08-055
50-60-08005	DECOD	96-04-028	132Z-104-030	NEW-P	96-09-074	162-22-030	REP-P	96-08-055
50-60-08010	DECOD	96-04-028	132Z-108-010	NEW-P	96-09-074	162-22-040	REP-P	96-08-055
50-60-08015	DECOD	96-04-028	132Z-108-020	NEW-P	96-09-074	162-22-050	AMD-P	96-08-055
50-60-08020	DECOD	96-04-028	132Z-108-030	NEW-P	96-09-074	162-22-060	AMD-P	96-08-055
50-60-08025	DECOD	96-04-028	132Z-108-040	NEW-P	96-09-074	162-22-070	AMD-P	96-08-055
50-60-08030	DECOD	96-04-028	132Z-108-050	NEW-P	96-09-074	162-22-080	AMD-P	96-08-055
50-60-08035	DECOD	96-04-028	132Z-108-060	NEW-P	96-09-074	162-22-090	AMD-P	96-08-055
50-60-08040	DECOD	96-04-028	132Z-108-070	NEW-P	96-09-074	162-22-100	NEW-P	96-08-055
50-60-085	DECOD	96-04-028	132Z-108-080	NEW-P	96-09-074	162-30	AMD-P	96-08-055
50-60-090	DECOD	96-04-028	132Z-122-010	NEW-P	96-09-074	162-30-010	AMD-P	96-08-055
50-60-09005	DECOD	96-04-028	132Z-122-020	NEW-P	96-09-074	162-30-020	AMD-P	96-08-055
50-60-09010	DECOD	96-04-028	132Z-122-030	NEW-P	96-09-074	162-30-030	NEW-P	96-08-055
50-60-09015	DECOD	96-04-028	132Z-133-010	NEW-P	96-09-074	162-30-035	NEW-P	96-08-055
50-60-09020	DECOD	96-04-028	132Z-134-010	NEW-P	96-09-074	162-30-040	NEW-P	96-08-055
50-60-100	DECOD	96-04-028	132Z-276-010	NEW-P	96-09-074	162-30-050	NEW-P	96-08-055
50-60-110	DECOD	96-04-028	132Z-276-020	NEW-P	96-09-074	162-30-060	NEW-P	96-08-055
50-60-120	DECOD	96-04-028	132Z-276-030	NEW-P	96-09-074	162-30-070	NEW-P	96-08-055
50-60-125	DECOD	96-04-028	132Z-276-040	NEW-P	96-09-074	162-30-080	NEW-P	96-08-055
50-60-130	DECOD	96-04-028	132Z-276-050	NEW-P	96-09-074	162-30-090	NEW-P	96-08-055
50-60-140	DECOD	96-04-028	132Z-276-060	NEW-P	96-09-074	162-30-100	NEW-P	96-08-055
50-60-145	DECOD	96-04-028	132Z-276-070	NEW-P	96-09-074	162-36	PREP	96-02-081
50-60-150	DECOD	96-04-028	132Z-276-080	NEW-P	96-09-074	162-36-001	NEW-P	96-06-087
50-60-160	DECOD	96-04-028	132Z-276-090	NEW-P	96-09-074	162-36-005	NEW-P	96-06-087
50-60-165	DECOD	96-04-028	132Z-276-100	NEW-P	96-09-074	162-36-006	NEW-P	96-06-087
50-60-170	DECOD	96-04-028	132Z-276-110	NEW-P	96-09-074	162-36-010	AMD-P	96-06-087
50-60-190	DECOD	96-04-028	132Z-276-120	NEW-P	96-09-074	162-36-020	AMD-P	96-06-087
50-60-200	DECOD	96-04-028	132Z-276-130	NEW-P	96-09-074	162-38	PREP	96-02-081
50-60-210	DECOD	96-04-028	132Z-276-140	NEW-P	96-09-074	162-38-010	AMD-P	96-06-087
55-01-001	REP-P	96-09-102	132Z-300-010	NEW-P	96-09-074	162-38-020	REP-P	96-06-087
55-01-010	AMD-E	96-03-104	132Z-300-020	NEW-P	96-09-074	162-38-030	REP-P	96-06-087
55-01-010	REP-P	96-09-102	132Z-300-030	NEW-P	96-09-074	162-38-035	AMD-P	96-06-087
55-01-020	AMD-E	96-03-104	132Z-300-040	NEW-P	96-09-074	162-38-040	AMD-P	96-06-087
55-01-020	REP-P	96-09-102	132Z-310-010	NEW-P	96-09-074	162-38-050	AMD-P	96-06-087
55-01-030	AMD-E	96-03-104	132Z-310-020	NEW-P	96-09-074	162-38-060	AMD-P	96-06-087

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
162-38-070	AMD-P	96-06-087	174-120-010	REP-P	96-08-066	182-08-110	REP	96-08-042
162-38-080	AMD-P	96-06-087	174-120-015	NEW-P	96-08-066	182-08-120	AMD-P	96-02-079
162-38-090	AMD-P	96-06-087	174-120-025	NEW-P	96-08-066	182-08-120	AMD	96-08-042
162-38-100	AMD-P	96-06-087	174-120-030	REP-P	96-08-066	182-08-160	AMD-P	96-02-079
162-38-110	AMD-P	96-06-087	174-120-035	NEW-P	96-08-066	182-08-160	AMD	96-08-042
162-38-120	AMD-P	96-06-087	174-120-040	REP-P	96-08-066	182-08-165	AMD-P	96-02-079
173-145-100	AMD-E	96-09-007	174-120-045	NEW-P	96-08-066	182-08-165	AMD	96-08-042
173-224-040	AMD	96-03-041	174-120-050	REP-P	96-08-066	182-08-170	REP-P	96-02-079
173-224-050	AMD	96-03-041	174-120-055	NEW-P	96-08-066	182-08-170	REP	96-08-042
173-224-070	REP	96-03-041	174-120-060	REP-P	96-08-066	182-08-180	AMD-P	96-02-079
173-224-090	AMD	96-03-041	174-120-065	NEW-P	96-08-066	182-08-180	AMD	96-08-042
173-303-515	REP-W	96-05-020	174-120-070	REP-P	96-08-066	182-08-190	AMD-P	96-02-079
173-330-010	REP-W	96-05-020	174-120-075	NEW-P	96-08-066	182-08-190	AMD	96-08-042
173-330-020	REP-W	96-05-020	174-120-080	REP-P	96-08-066	182-08-195	REP-P	96-02-079
173-330-030	REP-W	96-05-020	174-120-085	NEW-P	96-08-066	182-08-195	REP	96-08-042
173-330-040	REP-W	96-05-020	174-120-090	REP-P	96-08-066	182-08-200	AMD-P	96-02-079
173-330-050	REP-W	96-05-020	180-16-238	PREP	96-04-070	182-08-200	AMD	96-08-042
173-330-060	REP-W	96-05-020	180-16-238	NEW-P	96-07-046	182-08-210	AMD-P	96-02-079
173-330-070	REP-W	96-05-020	180-20	PREP	96-08-060	182-08-210	AMD	96-08-042
173-330-900	REP-W	96-05-020	180-40-240	AMD-P	96-08-061	182-08-220	AMD-P	96-02-079
173-340-200	AMD	96-04-010	180-40-240	AMD-W	96-09-025	182-08-220	AMD	96-08-042
173-340-440	AMD	96-04-010	180-40-255	AMD-P	96-08-061	182-08-300	REP-P	96-02-079
173-340-530	AMD	96-04-010	180-40-255	AMD-W	96-09-025	182-08-300	REP	96-08-042
173-340-700	AMD	96-04-010	180-40-310	AMD-P	96-08-061	182-12-110	AMD-P	96-02-080
173-340-706	AMD	96-04-010	180-40-310	AMD-W	96-09-025	182-12-110	AMD	96-08-043
173-340-740	AMD	96-04-010	180-40-315	AMD-P	96-08-061	182-12-111	AMD-P	96-02-080
173-340-745	AMD	96-04-010	180-40-315	AMD-W	96-09-025	182-12-111	AMD	96-08-043
173-354-008	NEW-W	96-05-020	180-40-317	NEW-P	96-08-061	182-12-115	AMD-P	96-02-080
173-354-010	NEW-W	96-05-020	180-40-317	NEW-W	96-09-025	182-12-115	AMD	96-08-043
173-354-020	NEW-W	96-05-020	180-40-320	AMD-P	96-08-061	182-12-117	NEW-P	96-02-080
173-354-050	NEW-W	96-05-020	180-40-320	AMD-W	96-09-025	182-12-117	NEW	96-08-043
173-354-070	NEW-W	96-05-020	180-51-050	AMD-P	96-04-071	182-12-119	NEW-P	96-02-080
173-354-090	NEW-W	96-05-020	180-51-050	AMD-C	96-09-010	182-12-119	NEW	96-08-043
173-354-100	NEW-W	96-05-020	180-51-050	AMD	96-09-027	182-12-122	REP-P	96-02-080
173-354-150	NEW-W	96-05-020	180-75-047	AMD	96-08-022	182-12-122	REP	96-08-043
173-354-200	NEW-W	96-05-020	180-78-160	PREP	96-07-102	182-12-130	REP-P	96-02-080
173-354-230	NEW-W	96-05-020	180-79-086	AMD-P	96-04-047	182-12-130	REP	96-08-043
173-354-300	NEW-W	96-05-020	180-79-086	AMD	96-08-023	182-12-132	AMD-P	96-02-080
173-354-320	NEW-W	96-05-020	180-79-230	AMD	96-08-022	182-12-132	AMD	96-08-043
173-354-340	NEW-W	96-05-020	180-79-311	AMD-P	96-04-048	182-12-145	AMD-P	96-02-080
173-354-360	NEW-W	96-05-020	180-79-311	AMD	96-08-024	182-12-145	AMD	96-08-043
173-354-380	NEW-W	96-05-020	180-79-334	AMD-P	96-04-049	182-12-151	REP-P	96-02-080
173-354-400	NEW-W	96-05-020	180-79-334	AMD	96-08-025	182-12-151	REP	96-08-043
173-354-440	NEW-W	96-05-020	180-73-010	NEW	96-04-073	182-12-160	REP-P	96-02-080
173-354-460	NEW-W	96-05-020	180-83-020	NEW	96-04-073	182-12-160	REP	96-08-043
173-354-500	NEW-W	96-05-020	180-83-030	NEW	96-04-073	182-12-165	REP-P	96-02-080
173-354-515	NEW-W	96-05-020	180-83-040	NEW	96-04-073	182-12-165	REP	96-08-043
173-354-525	NEW-W	96-05-020	180-83-050	NEW	96-04-073	182-12-200	AMD-P	96-02-080
173-354-535	NEW-W	96-05-020	180-83-060	NEW	96-04-073	182-12-200	AMD	96-08-043
173-354-545	NEW-W	96-05-020	180-83-070	NEW	96-04-073	182-12-215	AMD-P	96-02-080
173-354-555	NEW-W	96-05-020	180-85-025	AMD-P	96-04-074	182-12-215	AMD	96-08-043
173-354-600	NEW-W	96-05-020	180-85-025	AMD	96-08-013	182-12-220	AMD-P	96-02-080
173-354-620	NEW-W	96-05-020	180-85-032	NEW-P	96-04-074	182-12-220	AMD	96-08-043
173-354-640	NEW-W	96-05-020	180-85-032	NEW	96-08-013	182-25-001	NEW-P	96-09-102
173-354-660	NEW-W	96-05-020	180-86	PREP	96-06-038	182-25-010	NEW-P	96-09-102
173-354-670	NEW-W	96-05-020	180-87-093	NEW-P	96-04-072	182-25-020	NEW-P	96-09-102
173-354-680	NEW-W	96-05-020	180-87-093	NEW	96-08-012	182-25-030	NEW-P	96-09-102
173-354-700	NEW-W	96-05-020	180-90	PREP	96-09-026	182-25-040	NEW-P	96-09-102
173-354-720	NEW-W	96-05-020	182-08-010	AMD-P	96-02-079	182-25-050	NEW-P	96-09-102
173-354-800	NEW-W	96-05-020	182-08-010	AMD	96-08-042	182-25-060	NEW-P	96-09-102
173-354-900	NEW-W	96-05-020	182-08-015	NEW-P	96-02-079	182-25-070	NEW-P	96-09-102
173-354-990	NEW-W	96-05-020	182-08-015	NEW	96-08-042	182-25-080	NEW-P	96-09-102
173-400-030	AMD-P	96-06-036	182-08-020	AMD-P	96-02-079	182-25-090	NEW-P	96-09-102
173-400-045	AMD-P	96-06-036	182-08-020	AMD	96-08-042	182-25-100	NEW-P	96-09-102
173-400-070	AMD-P	96-06-036	182-08-030	REP-P	96-02-079	182-25-105	NEW-P	96-09-102
173-400-075	AMD-P	96-06-036	182-08-030	REP	96-08-042	182-25-110	NEW-P	96-09-102
173-400-105	AMD-P	96-06-036	182-08-040	REP-P	96-02-079	184-10-140	NEW-C	96-03-033
173-400-115	AMD-P	96-06-036	182-08-040	REP	96-08-042	192-12-300	PREP	96-03-158
173-400-116	AMD-P	96-06-036	182-08-060	REP-P	96-02-079	192-12-305	PREP	96-03-158
173-400-141	AMD-P	96-06-036	182-08-060	REP	96-08-042	192-16-002	AMD-P	96-04-065
173-430-040	AMD-E	96-08-041	182-08-090	NEW-P	96-02-079	192-16-024	NEW-P	96-04-065
173-806	PREP	96-06-018	182-08-095	NEW	96-08-042	192-16-051	AMD-P	96-04-065
174-120	PREP	96-03-138	182-08-110	REP-P	96-02-079	192-16-052	NEW-P	96-04-065

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
192-28-105	PREP	96-03-159	208-464-070	RECOD	96-06-011	208-660-070	RECOD	96-04-028
192-28-120	PREP	96-03-159	208-464-080	RECOD	96-06-011	208-660-080	RECOD	96-04-028
192-33-001	NEW-E	96-09-004	208-464-090	RECOD	96-06-011	208-660-08005	RECOD	96-04-028
192-36-010	NEW-P	96-08-062	208-472-010	RECOD	96-06-011	208-660-08010	RECOD	96-04-028
192-36-015	NEW-P	96-08-062	208-472-012	RECOD	96-06-011	208-660-08015	RECOD	96-04-028
192-36-020	NEW-P	96-08-062	208-472-015	RECOD	96-06-011	208-660-08020	RECOD	96-04-028
192-36-025	NEW-P	96-08-062	208-472-020	RECOD	96-06-011	208-660-08025	RECOD	96-04-028
196-16-005	REP-P	96-07-052	208-472-025	RECOD	96-06-011	208-660-08030	RECOD	96-04-028
196-16-007	AMD-P	96-07-052	208-472-041	RECOD	96-06-011	208-660-08035	RECOD	96-04-028
196-16-010	AMD-P	96-07-052	208-472-045	RECOD	96-06-011	208-660-08040	RECOD	96-04-028
196-16-020	AMD-P	96-07-052	208-472-050	RECOD	96-06-011	208-660-085	RECOD	96-04-028
196-16-031	AMD-P	96-07-052	208-472-060	RECOD	96-06-011	208-660-090	RECOD	96-04-028
196-20-010	AMD-P	96-07-052	208-472-065	RECOD	96-06-011	208-660-09005	RECOD	96-04-028
196-20-020	AMD-P	96-07-052	208-472-070	RECOD	96-06-011	208-660-09010	RECOD	96-04-028
196-20-030	AMD-P	96-07-052	208-472-075	RECOD	96-06-011	208-660-09015	RECOD	96-04-028
196-21-010	NEW-P	96-07-052	208-472-080	RECOD	96-06-011	208-660-09020	RECOD	96-04-028
196-21-020	NEW-P	96-07-052	208-480-010	RECOD	96-06-011	208-660-100	RECOD	96-04-028
196-21-030	NEW-P	96-07-052	208-480-020	RECOD	96-06-011	208-660-110	RECOD	96-04-028
196-24-058	NEW-P	96-07-037	208-480-030	RECOD	96-06-011	208-660-120	RECOD	96-04-028
204-56	PREP	96-06-060	208-480-040	RECOD	96-06-011	208-660-125	RECOD	96-04-028
204-56-085	AMD-P	96-09-080	208-480-050	RECOD	96-06-011	208-660-130	RECOD	96-04-028
208-08-010	NEW-P	96-06-085	208-480-060	RECOD	96-06-011	208-660-140	RECOD	96-04-028
208-08-020	NEW-P	96-06-085	208-480-070	RECOD	96-06-011	208-660-145	RECOD	96-04-028
208-08-030	NEW-P	96-06-085	208-620-010	NEW	96-04-013	208-660-150	RECOD	96-04-028
208-08-040	NEW-P	96-06-085	208-620-020	NEW	96-04-013	208-660-160	RECOD	96-04-028
208-08-050	NEW-P	96-06-085	208-620-030	NEW	96-04-013	208-660-165	RECOD	96-04-028
208-08-060	NEW-P	96-06-085	208-620-040	NEW	96-04-013	208-660-170	RECOD	96-04-028
208-08-070	NEW-P	96-06-085	208-620-050	NEW	96-04-013	208-660-190	RECOD	96-04-028
208-08-080	NEW-P	96-06-085	208-620-060	NEW	96-04-013	208-660-200	RECOD	96-04-028
208-08-090	NEW-P	96-06-085	208-620-070	NEW	96-04-013	208-660-210	RECOD	96-04-028
208-08-100	NEW-P	96-06-085	208-620-080	NEW	96-04-013	208-680A	PREP	96-06-084
208-08-110	NEW-P	96-06-085	208-620-090	NEW	96-04-013	208-680A-010	RECOD	96-05-018
208-08-120	NEW-P	96-06-085	208-620-100	RECOD	96-04-013	208-680A-020	RECOD	96-05-018
208-08-130	NEW-P	96-06-085	208-620-110	RECOD	96-04-013	208-680A-030	RECOD	96-05-018
208-08-140	NEW-P	96-06-085	208-620-120	RECOD	96-04-013	208-680A-040	RECOD	96-05-018
208-418	AMD-P	96-08-076	208-620-130	RECOD	96-04-013	208-680B	PREP	96-06-084
208-418-020	RECOD	96-06-011	208-620-140	RECOD	96-04-013	208-680B-010	RECOD	96-05-018
208-418-020	AMD-P	96-08-076	208-620-150	NEW	96-04-013	208-680B-020	RECOD	96-05-018
208-418-030	RECOD	96-06-011	208-620-160	RECOD	96-04-013	208-680B-030	RECOD	96-05-018
208-418-030	REP-P	96-08-076	208-620-170	RECOD	96-04-013	208-680B-050	RECOD	96-05-018
208-418-040	RECOD	96-06-011	208-620-180	NEW	96-04-013	208-680B-070	RECOD	96-05-018
208-418-040	AMD-P	96-08-076	208-620-190	RECOD	96-04-013	208-680B-080	RECOD	96-05-018
208-418-045	RECOD	96-06-011	208-620-200	NEW	96-04-013	208-680B-090	RECOD	96-05-018
208-418-045	AMD-P	96-08-076	208-620-210	RECOD	96-04-013	208-680C	PREP	96-06-084
208-418-050	RECOD	96-06-011	208-620-220	NEW	96-04-013	208-680C-020	RECOD	96-05-018
208-418-050	AMD-P	96-08-076	208-630-005	RECOD	96-03-059	208-680C-030	RECOD	96-05-018
208-418-060	RECOD	96-06-011	208-630-010	RECOD	96-03-059	208-680C-040	RECOD	96-05-018
208-418-060	AMD-P	96-08-076	208-630-015	RECOD	96-03-059	208-680C-050	RECOD	96-05-018
208-418-070	RECOD	96-06-011	208-630-020	RECOD	96-03-059	208-680D	PREP	96-06-084
208-418-070	AMD-P	96-08-076	208-630-025	RECOD	96-03-059	208-680D-010	RECOD	96-05-018
208-418-080	RECOD	96-06-011	208-630-030	RECOD	96-03-059	208-680D-020	RECOD	96-05-018
208-418-080	REP-P	96-08-076	208-630-035	RECOD	96-03-059	208-680D-030	RECOD	96-05-018
208-436-010	RECOD	96-06-011	208-630-040	RECOD	96-03-059	208-680D-040	RECOD	96-05-018
208-436-020	RECOD	96-06-011	208-630-050	RECOD	96-03-059	208-680D-050	RECOD	96-05-018
208-436-030	RECOD	96-06-011	208-630-060	RECOD	96-03-059	208-680D-060	RECOD	96-05-018
208-436-040	RECOD	96-06-011	208-630-065	RECOD	96-03-059	208-680D-070	RECOD	96-05-018
208-436-050	RECOD	96-06-011	208-630-068	RECOD	96-03-059	208-680D-080	RECOD	96-05-018
208-436-060	RECOD	96-06-011	208-630-070	RECOD	96-03-059	208-680E	PREP	96-06-084
208-436-070	RECOD	96-06-011	208-630-075	RECOD	96-03-059	208-680E-011	RECOD	96-05-018
208-436-080	RECOD	96-06-011	208-630-080	RECOD	96-03-059	208-680F	PREP	96-06-084
208-436-090	RECOD	96-06-011	208-630-085	RECOD	96-03-059	208-680F-010	RECOD	96-05-018
208-440-010	RECOD	96-06-011	208-630-090	RECOD	96-03-059	208-680F-020	RECOD	96-05-018
208-440-020	RECOD	96-06-011	208-630-095	RECOD	96-03-059	208-680F-040	RECOD	96-05-018
208-440-030	RECOD	96-06-011	208-630-100	RECOD	96-03-059	208-680F-050	RECOD	96-05-018
208-440-040	RECOD	96-06-011	208-660-010	RECOD	96-04-028	208-680F-060	RECOD	96-05-018
208-440-050	RECOD	96-06-011	208-660-020	RECOD	96-04-028	208-680F-070	RECOD	96-05-018
208-444-010	RECOD	96-06-011	208-660-030	RECOD	96-04-028	220-32-05100S	NEW-E	96-04-039
208-464-010	RECOD	96-06-011	208-660-035	RECOD	96-04-028	220-32-05100S	REP-E	96-04-039
208-464-020	RECOD	96-06-011	208-660-040	RECOD	96-04-028	220-32-05700S	NEW-E	96-08-064
208-464-030	RECOD	96-06-011	208-660-042	RECOD	96-04-028	220-32-05700S	REP-E	96-08-064
208-464-040	RECOD	96-06-011	208-660-045	RECOD	96-04-028	220-33-01000D	NEW-E	96-05-055
208-464-050	RECOD	96-06-011	208-660-050	RECOD	96-04-028	220-33-01000D	REP-E	96-05-055
208-464-060	RECOD	96-06-011	208-660-060	RECOD	96-04-028	220-33-04000B	NEW-E	96-04-026

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-33-04000B	REP-E 96-04-026	220-57-17500D	NEW-E 96-08-045	222-16-080	AMD-S 96-09-099
220-36-021	AMD-P 96-09-104	220-57-187	NEW-C 96-05-005	222-16-085	NEW-C 96-04-076
220-36-023	AMD-P 96-09-104	220-57-190	AMD-C 96-05-005	222-16-085	NEW-C 96-05-090
220-40-021	AMD-P 96-09-104	220-57-200	AMD-C 96-05-005	222-16-085	NEW-S 96-09-099
220-40-027	AMD-P 96-09-104	220-57-205	AMD-C 96-05-005	222-16-086	NEW-C 96-04-076
220-44-030	AMD-P 96-03-154	220-57-210	AMD-C 96-05-005	222-16-086	NEW-C 96-05-090
220-44-050	AMD-P 96-03-154	220-57-215	AMD-C 96-05-005	222-16-086	NEW-S 96-09-099
220-47-304	AMD-P 96-09-105	220-57-220	AMD-C 96-05-005	222-16-100	NEW-C 96-04-076
220-47-307	AMD-P 96-09-105	220-57-230	AMD-C 96-05-005	222-16-100	NEW-C 96-05-090
220-47-311	AMD-P 96-09-105	220-57-235	AMD-C 96-05-005	222-16-100	NEW-S 96-09-099
220-47-401	AMD-P 96-09-105	220-57-240	AMD-C 96-05-005	222-21-010	NEW-W 96-03-067
220-47-411	AMD-P 96-09-105	220-57-250	AMD-C 96-05-005	222-21-020	NEW-W 96-03-067
220-47-427	NEW-P 96-09-105	220-57-260	AMD-C 96-05-005	222-21-030	NEW-W 96-03-067
220-47-428	NEW-P 96-09-105	220-57-265	AMD-C 96-05-005	222-21-040	NEW-W 96-03-067
220-52-04600L	REP-E 96-02-065	220-57-270	AMD-C 96-05-005	222-24-030	AMD-E 96-03-009
220-52-04600M	NEW-E 96-03-055	220-57-280	AMD-C 96-05-005	222-24-030	AMD-C 96-04-076
220-52-04600N	NEW-E 96-06-006	220-57-285	AMD-C 96-05-005	222-24-030	AMD-C 96-05-090
220-52-07300C	REP-E 96-03-014	220-57-29000S	NEW-E 96-08-045	222-24-030	AMD-S 96-09-099
220-52-07300D	NEW-E 96-03-014	220-57-300	AMD-C 96-05-005	222-30-050	AMD-E 96-03-009
220-52-07300D	REP-E 96-03-014	220-57-310	AMD-C 96-05-005	222-30-050	AMD-C 96-04-076
220-52-07300E	NEW-E 96-04-038	220-57-31000S	NEW-E 96-08-045	222-30-050	AMD-C 96-05-090
220-52-07300E	REP-E 96-04-038	220-57-31500B	NEW-E 96-08-045	222-30-050	AMD-S 96-09-099
220-52-07300F	NEW-E 96-05-019	220-57-319	AMD-C 96-05-005	222-30-060	AMD-E 96-03-009
220-52-07300F	REP-E 96-05-019	220-57-31900K	NEW-E 96-08-045	222-30-060	AMD-C 96-04-076
220-52-07300F	REP-E 96-05-033	220-57-32100A	NEW-E 96-08-045	222-30-060	AMD-C 96-05-090
220-52-07300G	NEW-E 96-05-033	220-57-340	AMD-C 96-05-005	222-30-060	AMD-S 96-09-099
220-52-07300G	REP-E 96-05-033	220-57-345	AMD-C 96-05-005	222-30-065	NEW-E 96-03-009
220-52-07300H	NEW-E 96-06-005	220-57-350	AMD-C 96-05-005	222-30-065	NEW-C 96-04-076
220-52-07300H	REP-E 96-06-005	220-57-370	AMD-C 96-05-005	222-30-065	NEW-C 96-05-090
220-52-07500A	NEW-E 96-09-048	220-57-385	AMD-C 96-05-005	222-30-065	NEW-S 96-09-099
220-55-005	AMD 96-05-004	220-57-410	AMD-C 96-05-005	222-30-070	AMD-E 96-03-009
220-55-010	AMD 96-05-004	220-57-415	AMD-C 96-05-005	222-30-070	AMD-C 96-04-076
220-55-050	AMD 96-05-004	220-57-425	AMD-C 96-05-005	222-30-070	AMD-C 96-05-090
220-55-055	AMD 96-05-004	220-57-430	AMD-C 96-05-005	222-30-070	AMD-S 96-09-099
220-55-075	AMD 96-05-004	220-57-435	AMD-C 96-05-005	222-30-075	NEW-E 96-03-009
220-55-110	AMD 96-05-004	220-57-450	AMD-C 96-05-005	222-30-075	NEW-W 96-03-067
220-56-100	AMD-C 96-05-005	220-57-455	AMD-C 96-05-005	222-30-100	AMD-E 96-03-009
220-56-105	AMD-C 96-05-005	220-57-460	AMD-C 96-05-005	222-30-100	AMD-C 96-04-076
220-56-124	AMD-C 96-05-005	220-57-465	AMD-C 96-05-005	222-30-100	AMD-C 96-05-090
220-56-190	AMD-C 96-05-005	220-57-473	AMD-C 96-05-005	222-30-100	AMD-S 96-09-099
220-56-191	AMD-C 96-05-005	220-57-480	AMD-C 96-05-005	222-38-020	AMD-E 96-03-009
220-56-19000Q	NEW-E 96-09-063	220-57-495	AMD-C 96-05-005	222-38-020	AMD-W 96-03-067
220-56-195	AMD-C 96-05-005	220-57-50500Y	NEW-E 96-08-045	222-38-030	AMD-E 96-03-009
220-56-205	AMD-C 96-05-005	220-57-51500L	NEW-E 96-08-045	222-38-030	AMD-W 96-03-067
220-56-235	AMD 96-05-004	220-57-520	AMD-C 96-05-005	223-08-080	AMD-P 96-09-057
220-56-240	AMD 96-05-004	220-57-525	AMD-C 96-05-005	230-08-150	REP-P 96-09-057
220-56-24000B	NEW-E 96-08-063	220-57A-001	AMD 96-05-004	230-08-155	REP-P 96-09-057
220-56-28500G	NEW-E 96-06-052	220-57A-035	AMD 96-05-004	223-08-257	AMD-P 96-09-057
220-56-28500G	REP-E 96-06-052	220-57A-175	AMD-C 96-05-005	230-02-137	NEW-P 96-03-077
220-56-28500H	NEW-E 96-08-063	220-57A-180	AMD-C 96-05-005	230-02-137	NEW 96-07-075
220-56-310	AMD-C 96-05-005	220-69-24000C	NEW-E 96-09-048	230-02-162	NEW-P 96-03-077
220-56-325	AMD 96-05-004	220-88A-07000C	NEW-E 96-09-048	230-02-162	NEW 96-07-075
220-56-32500E	NEW-E 96-09-049	220-88A-08000B	NEW-E 96-09-048	230-02-278	AMD-P 96-03-077
220-56-326	NEW 96-05-004	220-95	AMD-C 96-08-015	230-02-278	AMD 96-07-075
220-56-330	AMD-C 96-05-005	220-95-013	AMD-P 96-04-069	230-02-279	NEW-P 96-03-077
220-56-350	AMD-C 96-05-005	220-95-018	AMD-P 96-04-069	230-02-279	NEW 96-07-075
220-56-35000J	REP-E 96-08-046	220-95-022	AMD-P 96-04-069	230-02-511	AMD-P 96-03-080
220-56-35000K	NEW-E 96-08-046	220-95-032	AMD-P 96-04-069	230-02-511	AMD 96-07-076
220-56-36000Q	NEW-E 96-07-051	222-10-030	NEW-W 96-03-067	230-04-024	AMD-P 96-03-077
220-56-36000Q	REP-E 96-07-051	222-10-040	NEW-C 96-04-076	230-04-024	AMD 96-07-075
220-56-372	AMD 96-05-004	222-10-040	NEW-C 96-05-090	230-04-040	AMD-P 96-03-077
220-56-380	AMD-C 96-05-005	222-10-040	NEW-S 96-09-099	230-04-040	AMD 96-07-075
220-56-38000D	REP-E 96-08-046	222-10-041	NEW-C 96-04-076	230-04-064	AMD-P 96-03-077
220-56-38000E	NEW-E 96-08-046	222-10-041	NEW-C 96-05-090	230-04-064	AMD 96-07-075
220-57-130	AMD-C 96-05-005	222-10-041	NEW-S 96-09-099	230-04-120	AMD-P 96-05-042
220-57-135	AMD-C 96-05-005	222-16-010	AMD-E 96-03-009	230-04-120	AMD 96-09-071
220-57-137	AMD-C 96-05-005	222-16-010	AMD-C 96-04-076	230-04-187	AMD-P 96-05-042
220-57-140	AMD-C 96-05-005	222-16-010	AMD-C 96-05-090	230-04-187	AMD 96-09-071
220-57-155	AMD-C 96-05-005	222-16-010	AMD-S 96-09-099	230-04-204	AMD-P 96-05-043
220-57-160	AMD-C 96-05-005	222-16-075	NEW-W 96-03-067	230-04-204	AMD 96-09-070
220-57-16000D	NEW-E 96-06-052	222-16-080	AMD-E 96-03-009	230-08-080	AMD-W 96-03-068
220-57-170	AMD-C 96-05-005	222-16-080	AMD-C 96-04-076	230-08-080	AMD-P 96-07-072
220-57-175	AMD-C 96-05-005	222-16-080	AMD-C 96-05-090	230-08-090	AMD-P 96-07-074

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
230-08-095	AMD-P	96-03-077	232-12-829	REP	96-03-084	246-50-010	AMD	96-09-042
230-08-095	AMD	96-07-075	232-12-829	REP-P	96-06-065	246-100-042	AMD-P	96-04-078
230-08-105	AMD-P	96-07-072	232-12-831	REP	96-04-027	246-100-166	AMD	96-04-079
230-08-122	AMD-P	96-03-077	232-16-080	AMD-P	96-06-066	246-100-218	NEW-P	96-04-077
230-08-122	AMD	96-07-075	232-16-410	REP-P	96-06-067	246-100-218	NEW	96-08-028
230-08-255	AMD-P	96-03-077	232-24-120	REP	96-04-027	246-254-053	AMD-P	96-07-103
230-08-255	AMD	96-07-075	232-28-02203	AMD	96-04-027	246-254-070	AMD-P	96-07-103
230-12-020	AMD-P	96-04-085	232-28-02204	AMD	96-04-027	246-254-080	AMD-P	96-07-103
230-12-020	AMD-S	96-05-041	232-28-02205	AMD	96-04-027	246-254-090	AMD-P	96-07-103
230-12-020	AMD	96-09-073	232-28-02210	AMD	96-04-027	246-254-100	AMD-P	96-07-103
230-12-076	NEW-P	96-03-077	232-28-02220	AMD	96-04-027	246-310	PREP	96-05-059
230-12-076	NEW	96-07-075	232-28-02240	AMD	96-04-027	246-316-990	AMD-P	96-09-084
230-20-050	AMD-P	96-03-079	232-28-02250	AMD	96-04-027	246-318	PREP	96-07-011
230-20-050	AMD	96-07-078	232-28-02270	AMD	96-04-027	246-327-990	AMD-P	96-09-082
230-20-052	NEW-P	96-03-079	232-28-02280	AMD	96-04-027	246-331-990	AMD-P	96-09-081
230-20-052	NEW	96-07-078	232-28-02290	AMD	96-04-027	246-336-990	AMD-P	96-09-083
230-20-055	AMD-P	96-03-080	232-28-206	REP	96-04-027	246-338-990	AMD-P	96-09-043
230-20-055	AMD	96-07-076	232-28-209	REP	96-04-027	246-430-030	AMD-P	96-04-081
230-20-064	AMD-P	96-03-077	232-28-21201	REP	96-04-027	246-800	PREP-W	96-09-018
230-20-064	AMD	96-05-011	232-28-215	REP	96-04-027	246-810-990	AMD	96-08-069
230-20-064	AMD	96-07-075	232-28-216	REP	96-04-027	246-838-010	PREP-W	96-06-028
230-20-101	AMD-P	96-07-072	232-28-225	REP	96-04-027	246-838-130	PREP-W	96-06-028
230-20-103	AMD-P	96-03-079	232-28-240	AMD	96-04-027	246-839-120	PREP-W	96-06-028
230-20-103	AMD	96-07-078	232-28-241	AMD	96-04-027	246-840-910	NEW	96-05-060
230-20-104	NEW-P	96-07-072	232-28-241	AMD-P	96-06-068	246-840-920	NEW	96-05-060
230-20-105	NEW-P	96-07-072	232-28-242	AMD	96-04-027	246-840-930	NEW	96-05-060
230-20-106	NEW-P	96-07-072	232-28-246	AMD	96-04-027	246-840-940	NEW	96-05-060
230-20-107	NEW-P	96-07-072	232-28-248	AMD	96-04-027	246-840-950	NEW	96-05-060
230-20-108	NEW-P	96-07-072	232-28-249	AMD	96-04-027	246-840-960	NEW	96-05-060
230-20-115	NEW-P	96-03-079	232-28-250	AMD-P	96-06-069	246-840-970	NEW	96-05-060
230-20-115	NEW	96-07-078	232-28-251	AMD-P	96-06-070	246-840-980	NEW	96-05-060
230-20-230	AMD-P	96-03-079	232-28-252	AMD-P	96-06-071	246-841-405	NEW	96-06-029
230-20-230	AMD	96-07-078	232-28-253	AMD-P	96-06-072	246-841-990	AMD	96-03-051
230-20-240	AMD-P	96-07-072	232-28-254	AMD-P	96-06-073	246-861-040	AMD-P	96-04-080
230-20-241	AMD-P	96-07-072	232-28-256	AMD-P	96-06-074	246-869-240	REP	96-03-016
230-20-242	AMD-P	96-07-072	232-28-257	AMD	96-04-027	246-883-020	PREP	96-03-012
230-20-246	AMD-P	96-07-072	232-28-260	NEW	96-04-027	246-885-030	NEW-P	96-03-134
230-20-325	AMD-P	96-03-076	232-28-261	NEW-P	96-06-075	246-885-030	NEW	96-07-012
230-20-325	AMD	96-07-077	232-28-262	NEW-P	96-06-076	246-915-030	AMD-E	96-03-050
230-20-335	AMD-P	96-03-076	232-28-404	REP	96-04-027	246-915-030	AMD-P	96-08-068
230-20-335	AMD	96-07-077	232-28-407	REP	96-04-027	246-917-020	REP	96-03-073
230-20-510	NEW-P	96-03-080	232-28-419	REP-P	96-06-077	246-917-025	REP	96-03-073
230-20-510	NEW	96-07-076	232-28-60101	REP	96-04-027	246-917-026	REP	96-03-073
230-25-040	AMD-P	96-03-076	232-28-60102	REP	96-04-027	246-917-030	REP	96-03-073
230-25-040	AMD	96-07-077	232-28-604	REP	96-04-027	246-917-040	REP	96-03-073
230-25-220	AMD-P	96-03-076	232-28-60415	REP	96-04-027	246-917-050	REP	96-03-073
230-25-220	AMD	96-07-077	232-28-605	REP	96-04-027	246-917-060	REP	96-03-073
230-25-330	AMD-P	96-05-042	232-28-60508	REP	96-04-027	246-917-070	REP	96-03-073
230-25-330	AMD	96-09-071	232-28-61610	REP	96-04-027	246-917-080	REP	96-03-073
230-40-010	AMD-P	96-07-073	232-28-619	AMD-C	96-05-044	246-917-090	REP	96-03-073
230-40-030	AMD-P	96-03-081	232-28-61900K	NEW-E	96-03-053	246-917-100	REP	96-03-073
230-40-055	AMD-P	96-03-080	232-28-61900K	REP-E	96-03-053	246-917-110	REP	96-03-073
230-46-100	AMD-P	96-07-073	232-28-61900L	NEW-E	96-03-054	246-917-120	REP	96-03-073
230-50-560	AMD-P	96-03-078	232-28-61900L	REP-E	96-03-054	246-917-121	REP	96-03-073
230-50-560	AMD	96-09-072	232-28-61900M	NEW-E	96-04-043	246-917-125	REP	96-03-073
230-50-562	NEW-P	96-03-078	232-28-61900M	REP-E	96-04-043	246-917-126	REP	96-03-073
230-50-562	NEW	96-09-072	232-28-61900P	NEW-E	96-06-007	246-917-130	REP	96-03-073
232-12-001	AMD-C	96-05-044	232-28-61900P	REP-E	96-06-007	246-917-135	REP	96-03-073
232-12-01701	NEW-P	96-06-063	232-28-812	REP	96-04-027	246-917-140	REP	96-03-073
232-12-025	AMD-P	96-06-062	236-12-015	AMD-E	96-09-006	246-917-150	REP	96-03-073
232-12-025	AMD-W	96-09-003	236-12-351	AMD-E	96-09-006	246-917-160	REP	96-03-073
232-12-026	NEW-P	96-06-062	236-12-360	AMD-E	96-09-006	246-917-170	REP	96-03-073
232-12-026	NEW-W	96-09-003	236-12-361	AMD-E	96-09-006	246-917-180	REP	96-03-073
232-12-131	AMD	96-04-027	236-12-362	REP-E	96-09-006	246-917-190	REP	96-03-073
232-12-144	AMD-C	96-05-044	236-12-370	AMD-E	96-09-006	246-917-200	REP	96-03-073
232-12-147	AMD-C	96-05-044	236-12-371	AMD-E	96-09-006	246-917-210	REP	96-03-073
232-12-168	AMD-C	96-05-044	245-02-040	PREP	96-04-059	246-917-220	REP	96-03-073
232-12-168	AMD-P	96-06-063	245-02-040	AMD-P	96-08-090	246-917-300	REP	96-03-073
232-12-275	AMD-P	96-06-064	246-10	PREP	96-06-048	246-917-990	REP	96-03-073
232-12-619	AMD-C	96-05-044	246-11	PREP	96-06-048	246-918	AMD	96-03-073
232-12-827	REP	96-04-027	246-50-001	AMD-P	96-04-082	246-918-005	AMD	96-03-073
232-12-828	NEW	96-03-084	246-50-001	AMD	96-09-042	246-918-006	AMD	96-03-073
232-12-829	REP-E	96-03-083	246-50-010	AMD-P	96-04-082	246-918-007	AMD	96-03-073

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-918-008	AMD	96-03-073	246-920-040	REP	96-03-073	246-924-470	AMD	96-08-007
246-918-009	AMD	96-03-073	246-920-120	REP	96-03-073	246-924-500	NEW-P	96-02-086
246-918-030	AMD	96-03-073	246-920-130	REP	96-03-073	246-924-500	NEW	96-08-007
246-918-035	AMD	96-03-073	246-920-140	REP	96-03-073	246-924-990	AMD-P	96-02-085
246-918-050	AMD	96-03-073	246-920-150	REP	96-03-073	246-924-990	AMD	96-08-006
246-918-070	AMD	96-03-073	246-920-160	REP	96-03-073	246-976-010	AMD	96-03-052
246-918-080	AMD	96-03-073	246-920-170	REP	96-03-073	246-976-045	NEW	96-03-052
246-918-085	AMD	96-03-073	246-920-180	REP	96-03-073	246-976-076	PREP	96-06-049
246-918-090	AMD	96-03-073	246-920-190	REP	96-03-073	246-976-077	PREP	96-06-049
246-918-095	AMD	96-03-073	246-920-200	REP	96-03-073	246-976-140	PREP	96-06-049
246-918-110	AMD	96-03-073	246-920-210	REP	96-03-073	246-976-165	NEW	96-03-052
246-918-120	AMD	96-03-073	246-920-220	REP	96-03-073	246-976-181	PREP	96-06-049
246-918-130	AMD	96-03-073	246-920-230	REP	96-03-073	250-20-021	AMD	96-04-019
246-918-140	AMD	96-03-073	246-920-240	REP	96-03-073	250-20-021	PREP	96-07-096
246-918-170	AMD	96-03-073	246-920-250	REP	96-03-073	250-65	PREP	96-07-095
246-918-180	AMD	96-03-073	246-920-260	REP	96-03-073	251-04-050	AMD-P	96-08-088
246-918-250	AMD	96-03-073	246-920-270	REP	96-03-073	251-06-020	AMD-P	96-08-088
246-918-260	AMD	96-03-073	246-920-280	REP	96-03-073	251-12-099	AMD-P	96-04-053
246-918-310	AMD	96-03-073	246-920-290	REP	96-03-073	251-12-099	AMD-C	96-07-091
246-918-990	AMD	96-03-073	246-920-300	REP	96-03-073	251-12-099	AMD	96-09-055
246-919-010	NEW	96-03-073	246-920-310	REP	96-03-073	251-12-100	AMD-P	96-04-053
246-919-020	NEW	96-03-073	246-920-320	REP	96-03-073	251-12-100	AMD-C	96-07-091
246-919-030	NEW	96-03-073	246-920-330	REP	96-03-073	251-12-100	AMD	96-09-055
246-919-100	NEW	96-03-073	246-920-340	REP	96-03-073	251-12-101	REP-P	96-04-053
246-919-110	NEW	96-03-073	246-920-350	REP	96-03-073	251-12-101	REP-C	96-07-091
246-919-120	NEW	96-03-073	246-920-360	REP	96-03-073	251-12-101	REP	96-09-055
246-919-130	NEW	96-03-073	246-920-370	REP	96-03-073	251-12-102	AMD-P	96-04-053
246-919-140	NEW	96-03-073	246-920-380	REP	96-03-073	251-12-102	AMD-C	96-07-091
246-919-150	NEW	96-03-073	246-920-390	REP	96-03-073	251-12-102	AMD	96-09-055
246-919-200	NEW	96-03-073	246-920-400	REP	96-03-073	251-12-104	NEW-P	96-04-053
246-919-210	NEW	96-03-073	246-920-410	REP	96-03-073	251-12-104	NEW-C	96-07-091
246-919-220	NEW	96-03-073	246-920-420	REP	96-03-073	251-12-104	NEW	96-09-055
246-919-230	NEW	96-03-073	246-920-430	REP	96-03-073	251-12-105	NEW-P	96-04-053
246-919-240	NEW	96-03-073	246-920-440	REP	96-03-073	251-12-105	NEW-C	96-07-091
246-919-300	NEW	96-03-073	246-920-450	REP	96-03-073	251-12-105	NEW	96-09-055
246-919-305	NEW	96-03-073	246-920-460	REP	96-03-073	251-12-106	NEW-P	96-04-053
246-919-310	NEW	96-03-073	246-920-470	REP	96-03-073	251-12-106	NEW-C	96-07-091
246-919-320	NEW	96-03-073	246-920-480	REP	96-03-073	251-12-106	NEW	96-09-055
246-919-330	NEW	96-03-073	246-920-490	REP	96-03-073	251-12-180	AMD-P	96-04-053
246-919-340	NEW	96-03-073	246-920-500	REP	96-03-073	251-12-180	AMD-C	96-07-091
246-919-350	NEW	96-03-073	246-920-510	REP	96-03-073	251-12-180	AMD	96-09-055
246-919-355	NEW	96-03-073	246-920-520	REP	96-03-073	251-12-232	AMD-P	96-04-053
246-919-360	NEW	96-03-073	246-920-530	REP	96-03-073	251-12-232	AMD-C	96-07-091
246-919-365	NEW	96-03-073	246-920-540	REP	96-03-073	251-12-232	AMD	96-09-055
246-919-370	NEW	96-03-073	246-920-550	REP	96-03-073	251-14-110	AMD-P	96-04-053
246-919-380	NEW	96-03-073	246-920-560	REP	96-03-073	251-14-110	AMD-C	96-07-091
246-919-390	NEW	96-03-073	246-920-570	REP	96-03-073	251-14-110	AMD	96-09-055
246-919-395	NEW	96-03-073	246-920-580	REP	96-03-073	251-14-130	NEW-P	96-04-053
246-919-400	NEW	96-03-073	246-920-590	REP	96-03-073	251-14-130	NEW-C	96-07-091
246-919-410	NEW	96-03-073	246-920-600	REP	96-03-073	251-14-130	NEW	96-09-055
246-919-420	NEW	96-03-073	246-920-610	REP	96-03-073	251-17-010	AMD	96-02-072
246-919-430	NEW	96-03-073	246-920-620	REP	96-03-073	251-17-150	AMD-P	96-08-086
246-919-440	NEW	96-03-073	246-920-630	REP	96-03-073	251-17-170	AMD	96-02-072
246-919-450	NEW	96-03-073	246-920-640	REP	96-03-073	251-19-105	REP-W	96-02-069
246-919-460	NEW	96-03-073	246-920-650	REP	96-03-073	251-19-105	AMD-P	96-02-071
246-919-470	NEW	96-03-073	246-920-660	REP	96-03-073	251-19-105	AMD	96-05-026
246-919-480	NEW	96-03-073	246-920-670	REP	96-03-073	251-22-116	AMD-P	96-08-081
246-919-500	NEW	96-03-073	246-920-680	REP	96-03-073	251-22-116	AMD-C	96-09-089
246-919-510	NEW	96-03-073	246-920-690	REP	96-03-073	251-22-167	AMD-P	96-08-081
246-919-600	NEW	96-03-073	246-920-710	REP	96-03-073	251-22-167	AMD-C	96-09-089
246-919-610	NEW	96-03-073	246-920-720	REP	96-03-073	251-22-195	AMD-P	96-08-081
246-919-620	NEW	96-03-073	246-920-730	REP	96-03-073	251-22-195	AMD-C	96-09-089
246-919-700	NEW	96-03-073	246-920-740	REP	96-03-073	251-22-197	REP-P	96-08-081
246-919-710	NEW	96-03-073	246-920-750	REP	96-03-073	251-22-197	REP-C	96-09-089
246-919-720	NEW	96-03-073	246-920-760	REP	96-03-073	251-22-200	AMD-P	96-08-081
246-919-730	NEW	96-03-073	246-920-770	REP	96-03-073	251-22-200	AMD-C	96-09-089
246-919-740	NEW	96-03-073	246-920-780	REP	96-03-073	251-22-250	AMD-P	96-08-084
246-919-750	NEW	96-03-073	246-920-890	REP	96-03-073	251-22-270	AMD-W	96-02-069
246-919-760	NEW	96-03-073	246-924-080	AMD-P	96-02-086	251-22-270	AMD-P	96-08-084
246-919-770	NEW	96-03-073	246-924-080	AMD	96-08-007	251-22-280	AMD-P	96-08-084
246-919-990	NEW	96-03-073	246-924-250	AMD-P	96-02-086	251-22-290	AMD-P	96-08-084
246-920-020	REP	96-03-073	246-924-250	AMD	96-08-007	260-12	PREP	96-03-142
246-920-030	REP	96-03-073	246-924-470	AMD-P	96-02-086	260-20	PREP	96-03-143

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
284-02-060	AMD	96-09-038	286-13-085	AMD	96-08-044	292-06-080	NEW-P	96-04-083
284-02-070	AMD-P	96-04-087	286-13-100	AMD-P	96-04-054	292-06-090	NEW-P	96-04-083
284-02-070	AMD	96-09-038	286-13-100	AMD	96-08-044	292-06-100	NEW-P	96-04-083
284-02-080	AMD-P	96-04-087	286-13-110	AMD-P	96-04-054	292-06-110	NEW-P	96-04-083
284-02-080	AMD	96-09-038	286-13-110	AMD	96-08-044	292-06-130	NEW-P	96-04-083
284-02-100	AMD-P	96-04-087	286-13-115	AMD-P	96-04-054	292-06-140	NEW-P	96-04-083
284-02-100	AMD	96-09-038	286-13-115	AMD	96-08-044	292-06-160	NEW-P	96-04-083
284-07	AMD-C	96-08-017	286-26-010	AMD-P	96-04-054	292-06-170	NEW-P	96-04-083
284-07	AMD-C	96-09-046	286-26-010	AMD	96-08-044	292-06-190	NEW-P	96-04-083
284-07-050	AMD-P	96-05-091	286-26-020	AMD-P	96-04-054	292-06-200	NEW-P	96-04-083
284-07-070	AMD-P	96-05-091	286-26-020	AMD	96-08-044	292-06-210	NEW-P	96-04-083
284-10-140	NEW-C	96-03-033	286-26-030	REP-P	96-04-054	292-06-220	NEW-P	96-04-083
284-10-140	NEW-C	96-03-075	286-26-030	REP	96-08-044	292-06-230	NEW-P	96-04-083
284-10-140	NEW	96-04-060	286-26-080	AMD-P	96-04-054	292-06-240	NEW-P	96-04-083
284-44-140	AMD-P	96-07-081	286-26-080	AMD	96-08-044	292-06-250	NEW-P	96-04-083
284-44-345	REP-P	96-05-091	286-26-100	AMD-P	96-04-054	292-06-270	NEW-P	96-04-083
284-44-345	REP-C	96-08-017	286-26-100	AMD	96-08-044	292-06-280	NEW-P	96-04-083
284-44-345	REP-C	96-09-046	286-26-110	NEW-P	96-04-054	292-08-010	REP-P	96-05-006
284-46-025	NEW-P	96-07-081	286-26-110	NEW	96-08-044	292-08-020	REP-P	96-05-006
284-46-060	REP-P	96-05-091	286-27-010	AMD-P	96-04-054	292-08-030	REP-P	96-05-006
284-46-060	REP-C	96-08-017	286-27-010	AMD	96-08-044	292-08-040	REP-P	96-05-006
284-46-060	REP-C	96-09-046	286-27-030	REP-P	96-04-054	292-08-050	REP-P	96-05-006
284-54-170	NEW-W	96-04-018	286-27-030	REP	96-08-044	292-12-010	REP-P	96-05-006
284-58-030	AMD-P	96-07-081	286-27-040	AMD-P	96-04-054	292-12-020	REP-P	96-05-006
284-58-250	AMD-P	96-07-081	286-27-040	AMD	96-08-044	292-12-030	REP-P	96-05-006
284-66	AMD-C	96-08-016	286-27-050	AMD-P	96-04-054	292-12-040	REP-P	96-05-006
284-66-020	AMD-P	96-04-086	286-27-050	AMD	96-08-044	292-12-050	REP-P	96-05-006
284-66-020	AMD	96-09-047	286-27-055	NEW-P	96-04-054	292-12-060	REP-P	96-05-006
284-66-063	AMD-P	96-04-086	286-27-055	NEW	96-08-044	292-12-070	REP-P	96-05-006
284-66-063	AMD	96-09-047	286-27-065	NEW-P	96-04-054	292-12-080	REP-P	96-05-006
284-66-077	AMD-P	96-04-086	286-27-065	NEW	96-08-044	292-12-090	REP-P	96-05-006
284-66-077	AMD	96-09-047	286-27-070	REP-P	96-04-054	292-12-110	REP-P	96-05-006
284-66-110	AMD-P	96-04-086	286-27-070	REP	96-08-044	292-12-120	REP-P	96-05-006
284-66-110	AMD	96-09-047	286-27-075	NEW-P	96-04-054	292-12-130	REP-P	96-05-006
284-66-120	AMD-P	96-04-086	286-27-075	NEW	96-08-044	292-12-140	REP-P	96-05-006
284-66-120	AMD	96-09-047	286-27-075	NEW-P	96-04-054	292-12-150	REP-P	96-05-006
284-66-130	AMD-P	96-04-086	286-27-080	REP-P	96-04-054	292-12-160	REP-P	96-05-006
284-66-130	AMD	96-09-047	286-27-080	REP	96-08-044	292-12-170	REP-P	96-05-006
284-66-135	NEW-P	96-04-086	286-30-010	AMD-P	96-04-054	292-12-180	REP-P	96-05-006
284-66-135	NEW	96-09-047	286-30-010	AMD	96-08-044	292-12-180	REP-P	96-05-006
284-66-142	AMD-P	96-04-086	286-30-020	REP-P	96-04-054	292-100-010	NEW-E	96-03-072
284-66-142	AMD	96-09-047	286-30-020	REP	96-08-044	292-100-020	NEW-E	96-03-072
284-66-142	AMD	96-09-047	286-30-030	AMD-P	96-04-054	292-100-030	NEW-E	96-03-072
284-66-203	AMD-P	96-04-086	286-30-030	AMD-P	96-04-054	292-100-040	NEW-E	96-03-072
284-66-203	AMD	96-09-047	286-30-030	AMD	96-08-044	292-100-050	NEW-E	96-03-072
286-04-010	AMD-P	96-04-054	286-35	AMD-P	96-04-054	292-100-060	NEW-E	96-03-072
286-04-010	AMD	96-08-044	286-35	AMD	96-08-044	292-100-070	NEW-E	96-03-072
286-04-030	AMD-P	96-04-054	286-35-020	REP-P	96-04-054	292-100-080	NEW-E	96-03-072
286-04-030	AMD	96-08-044	286-35-020	REP	96-08-044	292-100-090	NEW-E	96-03-072
286-04-060	AMD-P	96-04-054	286-35-030	AMD-P	96-04-054	292-100-100	NEW-E	96-03-072
286-04-060	AMD	96-08-044	286-35-030	AMD	96-08-044	292-100-110	NEW-E	96-03-072
286-04-070	AMD-P	96-04-054	286-35-040	AMD-P	96-04-054	296-17	PREP	96-09-100
286-04-070	AMD	96-08-044	286-35-040	AMD	96-08-044	296-17-420	AMD-P	96-05-064
286-04-080	AMD-P	96-04-054	286-35-050	REP-P	96-04-054	296-17-420	AMD-P	96-05-065
286-04-080	AMD	96-08-044	286-35-050	REP	96-08-044	296-17-440	AMD-P	96-05-064
286-04-090	AMD-P	96-04-054	286-35-060	AMD-P	96-04-054	296-17-440	AMD-P	96-05-065
286-04-090	AMD	96-08-044	286-35-060	AMD	96-08-044	296-17-440	AMD-P	96-05-065
286-13-010	AMD-P	96-04-054	286-35-070	REP-P	96-04-054	296-17-45003	AMD-P	96-05-064
286-13-010	AMD	96-08-044	286-35-070	REP	96-08-044	296-17-45003	AMD-P	96-05-065
286-13-020	AMD-P	96-04-054	286-40-010	AMD-P	96-04-054	296-17-501	AMD-P	96-05-064
286-13-020	AMD	96-08-044	286-40-010	AMD	96-08-044	296-17-501	AMD-P	96-05-065
286-13-030	AMD-P	96-04-054	286-40-020	AMD-P	96-04-054	296-17-502	REP-P	96-05-064
286-13-030	AMD	96-08-044	286-40-020	AMD	96-08-044	296-17-502	REP-P	96-05-065
286-13-040	AMD-P	96-04-054	286-40-030	AMD-P	96-04-054	296-17-503	AMD-P	96-05-064
286-13-040	AMD	96-08-044	286-40-030	AMD	96-08-044	296-17-503	AMD-P	96-05-065
286-13-045	NEW-P	96-04-054	286-40-030	AMD	96-08-044	296-17-503	AMD-P	96-05-065
286-13-045	NEW	96-08-044	292-04-270	AMD-E	96-03-092	296-17-505	AMD-P	96-05-064
286-13-060	AMD-P	96-04-054	292-06-001	NEW-P	96-04-083	296-17-505	AMD-P	96-05-065
286-13-060	AMD	96-08-044	292-06-005	NEW-P	96-04-083	296-17-50603	NEW-P	96-05-064
286-13-070	AMD-P	96-04-054	292-06-010	NEW-P	96-04-083	296-17-507	REP-P	96-05-064
286-13-070	AMD	96-08-044	292-06-020	NEW-P	96-04-083	296-17-507	NEW-P	96-05-065
286-13-070	AMD	96-08-044	292-06-030	NEW-P	96-04-083	296-17-50703	NEW-P	96-05-065
286-13-080	AMD-P	96-04-054	292-06-040	NEW-P	96-04-083	296-17-508	AMD-P	96-05-064
286-13-080	AMD	96-08-044	292-06-050	NEW-P	96-04-083	296-17-508	AMD-P	96-05-065
286-13-085	AMD-P	96-04-054	292-06-060	NEW-P	96-04-083	296-17-50904	REP-P	96-05-064
			292-06-070	NEW-P	96-04-083	296-17-50904	REP-P	96-05-065

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-17-50908	NEW-P	96-05-064	296-17-540	AMD-P	96-05-065	296-17-58507	NEW-P	96-05-064
296-17-50908	NEW-P	96-05-065	296-17-54101	AMD-P	96-05-064	296-17-58507	NEW-P	96-05-065
296-17-50910	NEW-P	96-05-064	296-17-54101	AMD-P	96-05-065	296-17-586	AMD-P	96-05-064
296-17-50910	NEW-P	96-05-065	296-17-545	AMD-P	96-05-064	296-17-586	AMD-P	96-05-065
296-17-50912	NEW-P	96-05-064	296-17-545	AMD-P	96-05-065	296-17-590	AMD-P	96-05-064
296-17-50912	NEW-P	96-05-065	296-17-546	AMD-P	96-05-064	296-17-590	AMD-P	96-05-065
296-17-50915	NEW-P	96-05-064	296-17-546	AMD-P	96-05-065	296-17-59201	AMD-P	96-05-064
296-17-50915	NEW-P	96-05-065	296-17-55201	AMD-P	96-05-064	296-17-59201	AMD-P	96-05-065
296-17-50917	NEW-P	96-05-064	296-17-55201	AMD-P	96-05-065	296-17-59202	AMD-P	96-05-064
296-17-50917	NEW-P	96-05-065	296-17-555	AMD-P	96-05-064	296-17-59202	AMD-P	96-05-065
296-17-510	AMD-P	96-05-064	296-17-555	AMD-P	96-05-065	296-17-59205	NEW-P	96-05-064
296-17-510	AMD-P	96-05-065	296-17-556	REP-P	96-05-064	296-17-59205	NEW-P	96-05-065
296-17-511	AMD-P	96-05-064	296-17-556	REP-P	96-05-065	296-17-594	AMD-P	96-05-064
296-17-511	AMD-P	96-05-065	296-17-561	AMD-P	96-05-064	296-17-594	AMD-P	96-05-065
296-17-51101	NEW-P	96-05-064	296-17-561	AMD-P	96-05-065	296-17-599	AMD-P	96-05-064
296-17-51101	NEW-P	96-05-065	296-17-56101	AMD-P	96-05-064	296-17-599	AMD-P	96-05-065
296-17-512	AMD-P	96-05-064	296-17-56101	AMD-P	96-05-065	296-17-604	AMD-P	96-05-064
296-17-512	AMD-P	96-05-065	296-17-562	AMD-P	96-05-064	296-17-604	AMD-P	96-05-065
296-17-513	AMD-P	96-05-064	296-17-562	AMD-P	96-05-065	296-17-605	REP-P	96-05-064
296-17-513	AMD-P	96-05-065	296-17-563	AMD-P	96-05-064	296-17-605	REP-P	96-05-065
296-17-51301	NEW-P	96-05-064	296-17-563	AMD-P	96-05-065	296-17-606	AMD-P	96-05-064
296-17-51301	NEW-P	96-05-065	296-17-564	AMD-P	96-05-064	296-17-606	AMD-P	96-05-065
296-17-517	AMD-P	96-05-064	296-17-564	AMD-P	96-05-065	296-17-619	AMD-P	96-05-064
296-17-517	AMD-P	96-05-065	296-17-56401	AMD-P	96-05-064	296-17-619	AMD-P	96-05-065
296-17-519	AMD-P	96-05-064	296-17-56401	AMD-P	96-05-065	296-17-620	AMD-P	96-05-064
296-17-519	AMD-P	96-05-065	296-17-56402	AMD-P	96-05-064	296-17-620	AMD-P	96-05-065
296-17-52002	AMD-P	96-05-064	296-17-56402	AMD-P	96-05-065	296-17-622	AMD-P	96-05-064
296-17-52002	AMD-P	96-05-065	296-17-565	AMD-P	96-05-064	296-17-622	AMD-P	96-05-065
296-17-52103	AMD-P	96-05-064	296-17-565	AMD-P	96-05-065	296-17-628	AMD-P	96-05-064
296-17-52103	AMD-P	96-05-065	296-17-56602	NEW-P	96-05-064	296-17-628	AMD-P	96-05-065
296-17-52104	AMD-P	96-05-064	296-17-56602	NEW-P	96-05-065	296-17-634	AMD-P	96-05-064
296-17-52104	AMD-P	96-05-065	296-17-567	AMD-P	96-05-064	296-17-634	AMD-P	96-05-065
296-17-52107	AMD-P	96-05-064	296-17-567	AMD-P	96-05-065	296-17-643	AMD-P	96-05-064
296-17-52107	AMD-P	96-05-065	296-17-568	AMD-P	96-05-064	296-17-643	AMD-P	96-05-065
296-17-52110	AMD-P	96-05-064	296-17-568	AMD-P	96-05-065	296-17-644	AMD-P	96-05-064
296-17-52110	AMD-P	96-05-065	296-17-56901	AMD-P	96-05-064	296-17-644	AMD-P	96-05-065
296-17-52112	NEW-P	96-05-064	296-17-56901	AMD-P	96-05-065	296-17-645	AMD-P	96-05-064
296-17-52112	NEW-P	96-05-065	296-17-57001	AMD-P	96-05-064	296-17-645	AMD-P	96-05-065
296-17-52113	NEW-P	96-05-064	296-17-57001	AMD-P	96-05-065	296-17-646	AMD-P	96-05-064
296-17-52113	NEW-P	96-05-065	296-17-57003	AMD-P	96-05-064	296-17-646	AMD-P	96-05-065
296-17-524	AMD-P	96-05-064	296-17-57003	AMD-P	96-05-065	296-17-649	AMD-P	96-05-064
296-17-524	AMD-P	96-05-065	296-17-571	AMD-P	96-05-064	296-17-649	AMD-P	96-05-065
296-17-526	AMD-P	96-05-064	296-17-571	AMD-P	96-05-065	296-17-64901	AMD-P	96-05-064
296-17-526	AMD-P	96-05-065	296-17-572	AMD-P	96-05-064	296-17-64901	AMD-P	96-05-065
296-17-527	AMD-P	96-05-064	296-17-572	AMD-P	96-05-065	296-17-64902	AMD-P	96-05-064
296-17-527	AMD-P	96-05-065	296-17-573	AMD-P	96-05-064	296-17-64902	AMD-P	96-05-065
296-17-528	AMD-P	96-05-064	296-17-573	AMD-P	96-05-065	296-17-64903	AMD-P	96-05-064
296-17-528	AMD-P	96-05-065	296-17-573	AMD-P	96-05-064	296-17-64903	AMD-P	96-05-065
296-17-529	AMD-P	96-05-064	296-17-573	AMD-P	96-05-065	296-17-64904	AMD-P	96-05-064
296-17-529	AMD-P	96-05-065	296-17-57602	AMD-P	96-05-064	296-17-64904	AMD-P	96-05-065
296-17-530	REP-P	96-05-064	296-17-57602	AMD-P	96-05-065	296-17-64905	AMD-P	96-05-064
296-17-530	REP-P	96-05-065	296-17-57603	AMD-P	96-05-064	296-17-64905	AMD-P	96-05-065
296-17-534	AMD-P	96-05-064	296-17-57603	AMD-P	96-05-065	296-17-64905	AMD-P	96-05-064
296-17-534	AMD-P	96-05-065	296-17-579	REP-P	96-05-064	296-17-64905	AMD-P	96-05-065
296-17-53501	AMD-P	96-05-064	296-17-579	REP-P	96-05-065	296-17-64999	NEW-P	96-05-064
296-17-53501	AMD-P	96-05-065	296-17-580	AMD-P	96-05-064	296-17-64999	NEW-P	96-05-065
296-17-53502	AMD-P	96-05-064	296-17-580	AMD-P	96-05-065	296-17-651	AMD-P	96-05-064
296-17-53502	AMD-P	96-05-065	296-17-582	AMD-P	96-05-064	296-17-651	AMD-P	96-05-065
296-17-536	AMD-P	96-05-064	296-17-582	AMD-P	96-05-065	296-17-654	AMD-P	96-05-064
296-17-536	AMD-P	96-05-065	296-17-58201	AMD-P	96-05-064	296-17-654	AMD-P	96-05-065
296-17-538	AMD-P	96-05-064	296-17-58201	AMD-P	96-05-065	296-17-659	AMD-P	96-05-064
296-17-538	AMD-P	96-05-065	296-17-583	AMD-P	96-05-064	296-17-659	AMD-P	96-05-065
296-17-53802	NEW-P	96-05-064	296-17-583	AMD-P	96-05-065	296-17-66002	AMD-P	96-05-064
296-17-53802	NEW-P	96-05-065	296-17-585	AMD-P	96-05-064	296-17-66002	AMD-P	96-05-065
296-17-53803	AMD-P	96-05-064	296-17-585	AMD-P	96-05-065	296-17-66004	NEW-P	96-05-064
296-17-53803	AMD-P	96-05-065	296-17-58501	AMD-P	96-05-064	296-17-66004	NEW-P	96-05-065
296-17-53805	AMD-P	96-05-064	296-17-58501	NEW-P	96-05-065	296-17-67601	AMD-P	96-05-064
296-17-53805	AMD-P	96-05-065	296-17-58503	NEW-P	96-05-064	296-17-67601	AMD-P	96-05-065
296-17-53806	AMD-P	96-05-064	296-17-58503	NEW-P	96-05-065	296-17-67602	AMD-P	96-05-064
296-17-53806	AMD-P	96-05-065	296-17-58504	NEW-P	96-05-064	296-17-67602	AMD-P	96-05-065
296-17-539	AMD-P	96-05-064	296-17-58504	NEW-P	96-05-065	296-17-677	AMD-P	96-05-064
296-17-539	AMD-P	96-05-065	296-17-58505	NEW-P	96-05-064	296-17-677	AMD-P	96-05-065
296-17-540	AMD-P	96-05-064	296-17-58505	NEW-P	96-05-065	296-17-67901	AMD-P	96-05-064
			296-17-58506	NEW-P	96-05-064	296-17-67901	AMD-P	96-05-065
			296-17-58506	NEW-P	96-05-065	296-17-680	AMD-P	96-05-064

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-17-680	AMD-P	96-05-065	296-17-915	AMD-P	96-05-064	296-62-07739	AMD-P	96-03-024
296-17-681	AMD-P	96-05-064	296-17-915	AMD-P	96-05-065	296-62-07739	AMD	96-09-030
296-17-681	AMD-P	96-05-065	296-17-919	PREP	96-03-153	296-65-003	AMD	96-05-056
296-17-687	AMD-P	96-05-064	296-17-919	AMD-P	96-07-098	296-65-005	AMD	96-05-056
296-17-687	AMD-P	96-05-065	296-17-920	AMD-P	96-03-115	296-65-007	AMD	96-05-056
296-17-692	AMD-P	96-05-064	296-17-920	AMD-P	96-05-064	296-65-010	AMD	96-05-056
296-17-692	AMD-P	96-05-065	296-17-920	AMD-P	96-05-065	296-65-012	AMD	96-05-056
296-17-693	AMD-P	96-05-064	296-17-920	AMD	96-06-025	296-65-015	AMD	96-05-056
296-17-693	AMD-P	96-05-065	296-18A-520	PREP	96-03-106	296-65-020	AMD	96-05-056
296-17-694	AMD-P	96-05-064	296-20-010	AMD-P	96-05-066	296-65-030	AMD	96-05-056
296-17-694	AMD-P	96-05-065	296-20-132	AMD-P	96-05-066	296-65-050	AMD	96-05-056
296-17-695	AMD-P	96-05-064	296-20-135	AMD-P	96-05-066	296-104-025	PREP	96-09-086
296-17-695	AMD-P	96-05-065	296-23-180	AMD-P	96-05-066	296-104-065	PREP	96-09-086
296-17-699	AMD-P	96-05-064	296-23-185	AMD-P	96-05-066	296-104-102	PREP	96-09-086
296-17-699	AMD-P	96-05-065	296-23-220	AMD-P	96-05-066	296-104-170	PREP	96-09-086
296-17-700	AMD-P	96-05-064	296-23-230	AMD-P	96-05-066	296-104-205	PREP	96-09-086
296-17-700	AMD-P	96-05-065	296-23A-400	AMD-P	96-05-066	296-104-210	PREP	96-09-086
296-17-701	AMD-P	96-05-064	296-24-084	AMD-P	96-03-024	296-104-215	PREP	96-09-086
296-17-701	AMD-P	96-05-065	296-24-084	AMD	96-09-030	296-104-220	PREP	96-09-086
296-17-703	AMD-P	96-05-064	296-24-092	AMD-P	96-03-024	296-104-230	PREP	96-09-086
296-17-703	AMD-P	96-05-065	296-24-092	AMD	96-09-030	296-104-235	PREP	96-09-086
296-17-704	AMD-P	96-05-064	296-24-23533	AMD-P	96-03-024	296-104-240	PREP	96-09-086
296-17-704	AMD-P	96-05-065	296-24-23533	AMD	96-09-030	296-104-245	PREP	96-09-086
296-17-706	AMD-P	96-05-064	296-27	PREP	96-06-033	296-104-255	PREP	96-09-086
296-17-706	AMD-P	96-05-065	296-45	PREP	96-05-075	296-104-256	PREP	96-09-086
296-17-707	AMD-P	96-05-064	296-45-60013	NEW-P	96-09-101	296-104-260	PREP	96-09-086
296-17-707	AMD-P	96-05-065	296-54	PREP	96-05-075	296-104-273	PREP	96-09-086
296-17-708	AMD-P	96-05-064	296-54-45001	REP-P	96-09-101	296-116-185	PREP	96-05-054
296-17-708	AMD-P	96-05-065	296-54-501	AMD-P	96-09-101	296-116-300	PREP	96-04-052
296-17-709	AMD-P	96-05-064	296-54-505	AMD-P	96-09-101	296-116-300	AMD-P	96-08-067
296-17-709	AMD-P	96-05-065	296-54-507	AMD-P	96-09-101	296-150A	PREP	96-06-032
296-17-710	AMD-P	96-05-064	296-54-511	AMD-P	96-09-101	296-155	PREP	96-05-078
296-17-710	AMD-P	96-05-065	296-54-513	AMD-P	96-09-101	296-155	PREP	96-05-079
296-17-711	AMD-P	96-05-064	296-54-515	AMD-P	96-09-101	296-305-001	AMD-C	96-03-026
296-17-711	AMD-P	96-05-065	296-54-519	AMD-P	96-09-101	296-305-003	AMD-C	96-03-026
296-17-712	AMD-P	96-05-064	296-54-521	AMD-P	96-09-101	296-305-005	AMD-C	96-03-026
296-17-712	AMD-P	96-05-065	296-54-523	AMD-P	96-09-101	296-305-007	AMD-C	96-03-026
296-17-717	AMD-P	96-05-064	296-54-529	AMD-P	96-09-101	296-305-010	AMD-C	96-03-026
296-17-717	AMD-P	96-05-065	296-54-531	AMD-P	96-09-101	296-305-01001	NEW-C	96-03-026
296-17-719	AMD-P	96-05-064	296-54-535	AMD-P	96-09-101	296-305-01002	NEW-C	96-03-026
296-17-719	AMD-P	96-05-065	296-54-537	AMD-P	96-09-101	296-305-01003	NEW-C	96-03-026
296-17-723	AMD-P	96-05-064	296-54-539	AMD-P	96-09-101	296-305-01005	NEW-C	96-03-026
296-17-723	AMD-P	96-05-065	296-54-551	AMD-P	96-09-101	296-305-01007	NEW-C	96-03-026
296-17-727	AMD-P	96-05-064	296-54-553	AMD-P	96-09-101	296-305-01009	NEW-C	96-03-026
296-17-727	AMD-P	96-05-065	296-54-555	AMD-P	96-09-101	296-305-0105	AMD-C	96-03-026
296-17-741	AMD-P	96-05-064	296-54-557	AMD-P	96-09-101	296-305-01501	NEW-C	96-03-026
296-17-741	AMD-P	96-05-065	296-54-559	AMD-P	96-09-101	296-305-01503	NEW-C	96-03-026
296-17-742	AMD-P	96-05-064	296-54-561	AMD-P	96-09-101	296-305-01505	NEW-C	96-03-026
296-17-742	AMD-P	96-05-065	296-54-565	AMD-P	96-09-101	296-305-01507	NEW-C	96-03-026
296-17-746	AMD-P	96-05-064	296-54-567	AMD-P	96-09-101	296-305-01509	NEW-C	96-03-026
296-17-746	AMD-P	96-05-065	296-54-575	AMD-P	96-09-101	296-305-01511	NEW-C	96-03-026
296-17-747	AMD-P	96-05-064	296-54-577	AMD-P	96-09-101	296-305-01513	NEW-C	96-03-026
296-17-747	AMD-P	96-05-065	296-54-593	AMD-P	96-09-101	296-305-01515	NEW-C	96-03-026
296-17-753	AMD-P	96-05-064	296-54-595	AMD-P	96-09-101	296-305-01517	NEW-C	96-03-026
296-17-753	AMD-P	96-05-065	296-54-597	AMD-P	96-09-101	296-305-017	AMD-C	96-03-026
296-17-756	AMD-P	96-05-064	296-54-601	AMD-P	96-09-101	296-305-020	AMD-C	96-03-026
296-17-756	AMD-P	96-05-065	296-54-605	AMD-P	96-09-101	296-305-02001	NEW-C	96-03-026
296-17-76207	AMD-P	96-05-064	296-62-07306	AMD-P	96-03-024	296-305-02003	NEW-C	96-03-026
296-17-76207	AMD-P	96-05-065	296-62-07306	AMD	96-09-030	296-305-02005	NEW-C	96-03-026
296-17-76209	AMD-P	96-05-064	296-62-07342	AMD-P	96-03-024	296-305-02007	NEW-C	96-03-026
296-17-76209	AMD-P	96-05-065	296-62-07342	AMD	96-09-030	296-305-02009	NEW-C	96-03-026
296-17-763	AMD-P	96-05-064	296-62-07445	AMD-P	96-03-024	296-305-02011	NEW-C	96-03-026
296-17-763	AMD-P	96-05-065	296-62-07445	AMD	96-09-030	296-305-02013	NEW-C	96-03-026
296-17-778	AMD-P	96-05-064	296-62-07515	PREP	96-05-077	296-305-02015	NEW-C	96-03-026
296-17-778	AMD-P	96-05-065	296-62-07521	AMD-P	96-03-024	296-305-02017	NEW-C	96-03-026
296-17-870	AMD-P	96-05-064	296-62-07521	AMD	96-09-030	296-305-02019	NEW-C	96-03-026
296-17-870	AMD-P	96-05-065	296-62-07533	AMD-P	96-03-024	296-305-025	AMD-C	96-03-026
296-17-885	AMD-P	96-05-064	296-62-07533	AMD	96-09-030	296-305-02501	NEW-C	96-03-026
296-17-885	AMD-P	96-05-065	296-62-07550	AMD-P	96-03-024	296-305-030	AMD-C	96-03-026
296-17-895	AMD-P	96-03-115	296-62-07550	AMD	96-09-030	296-305-03001	NEW-C	96-03-026
296-17-895	AMD-P	96-05-064	296-62-07668	AMD-P	96-03-024	296-305-035	AMD-C	96-03-026
296-17-895	AMD-P	96-05-065	296-62-07668	AMD	96-09-030	296-305-040	AMD-C	96-03-026
296-17-895	AMD	96-06-025	296-62-07705	AMD-E	96-08-072	296-305-04001	NEW-C	96-03-026

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-305-045	AMD-C	96-03-026	304-25-510	REP	96-04-045	308-128D-040	DECOD	96-05-018
296-305-04501	NEW-C	96-03-026	304-25-520	REP	96-04-045	308-128D-050	DECOD	96-05-018
296-305-04503	NEW-C	96-03-026	304-25-530	REP	96-04-045	308-128D-060	DECOD	96-05-018
296-305-04505	NEW-C	96-03-026	304-25-540	REP	96-04-045	308-128D-070	DECOD	96-05-018
296-305-04507	NEW-C	96-03-026	304-25-550	REP	96-04-045	308-128D-080	DECOD	96-05-018
296-305-04509	NEW-C	96-03-026	304-25-555	REP	96-04-045	308-128E	PREP	96-06-084
296-305-04511	NEW-C	96-03-026	304-25-560	REP	96-04-045	308-128E-011	DECOD	96-05-018
296-305-05001	NEW-C	96-03-026	304-25-570	REP	96-04-045	308-128F	PREP	96-06-084
296-305-05003	NEW-C	96-03-026	304-25-580	REP	96-04-045	308-128F-010	DECOD	96-05-018
296-305-05005	NEW-C	96-03-026	304-25-590	REP	96-04-045	308-128F-020	DECOD	96-05-018
296-305-05007	NEW-C	96-03-026	308-10-010	AMD	96-05-036	308-128F-040	DECOD	96-05-018
296-305-05009	NEW-C	96-03-026	308-10-020	AMD	96-05-036	308-128F-050	DECOD	96-05-018
296-305-05011	NEW-C	96-03-026	308-10-025	AMD	96-05-036	308-128F-060	DECOD	96-05-018
296-305-05013	NEW-C	96-03-026	308-10-030	AMD	96-05-036	308-128F-070	DECOD	96-05-018
296-305-05501	NEW-C	96-03-026	308-10-040	AMD	96-05-036	308-129-010	NEW-W	96-08-057
296-305-05503	NEW-C	96-03-026	308-10-045	AMD	96-05-036	308-129-011	NEW-E	96-09-056
296-305-060	AMD-C	96-03-026	308-10-067	AMD	96-05-036	308-129-020	NEW-W	96-08-057
296-305-06001	AMD-C	96-03-026	308-13-005	AMD-P	96-04-009	308-129-021	NEW-E	96-09-056
296-305-06003	AMD-C	96-03-026	308-13-005	AMD-C	96-04-040	308-129-030	NEW-W	96-08-057
296-305-06005	AMD-C	96-03-026	308-13-015	AMD-P	96-04-009	308-129-031	NEW-E	96-09-056
296-305-06007	AMD-C	96-03-026	308-13-015	AMD-C	96-04-040	308-129-100	NEW-W	96-08-057
296-305-06009	AMD-C	96-03-026	308-13-024	AMD-P	96-04-009	308-129-101	NEW-E	96-09-056
296-305-06011	AMD-C	96-03-026	308-13-024	AMD-C	96-04-040	308-129-110	NEW-W	96-08-057
296-305-063	AMD-C	96-03-026	308-13-050	AMD-P	96-04-009	308-129-111	NEW-E	96-09-056
296-305-064	AMD-C	96-03-026	308-13-050	AMD-C	96-04-040	308-129-120	NEW-W	96-08-057
296-305-065	AMD-C	96-03-026	308-13-110	REP-P	96-04-009	308-129-130	NEW-W	96-08-057
296-305-06501	AMD-C	96-03-026	308-13-110	REP-C	96-04-040	308-129-200	NEW-W	96-08-057
296-305-06503	AMD-C	96-03-026	308-13-150	PREP	96-04-007	308-129-210	NEW-W	96-08-057
296-305-06505	AMD-C	96-03-026	308-13-150	AMD-P	96-08-005	308-129-220	NEW-W	96-08-057
296-305-06507	AMD-C	96-03-026	308-56A-030	AMD	96-04-004	308-129-230	NEW-W	96-08-057
296-305-06509	AMD-C	96-03-026	308-56A-090	AMD	96-03-047	308-129-240	NEW-W	96-08-057
296-305-06511	AMD-C	96-03-026	308-56A-210	AMD	96-03-047	308-129-300	NEW-W	96-08-057
296-305-06513	AMD-C	96-03-026	308-93-010	AMD-P	96-07-030	308-129-310	NEW-W	96-08-057
296-305-06515	AMD-C	96-03-026	308-93-050	AMD-P	96-07-030	314-12-020	AMD	96-03-004
296-305-06517	AMD-C	96-03-026	308-93-070	AMD	96-04-004	314-12-025	AMD	96-03-004
296-305-06519	NEW-C	96-03-026	308-93-088	AMD	96-03-046	314-12-035	AMD	96-03-004
296-305-070	AMD-C	96-03-026	308-93-174	REP-P	96-09-041	314-12-070	AMD	96-03-004
296-305-07001	AMD-C	96-03-026	308-93-440	AMD	96-03-046	314-12-080	AMD	96-03-004
296-305-07003	AMD-C	96-03-026	308-93-670	AMD	96-03-046	314-14-010	NEW	96-03-074
296-305-07005	AMD-C	96-03-026	308-93-700	NEW-P	96-07-030	314-14-020	NEW	96-03-074
296-305-07007	AMD-C	96-03-026	308-93-710	NEW-P	96-07-030	314-14-030	NEW	96-03-074
296-305-07009	AMD-C	96-03-026	308-93-720	NEW-P	96-07-030	314-14-040	NEW	96-03-074
296-305-07011	NEW-C	96-03-026	308-93-730	NEW-P	96-07-030	314-14-050	NEW	96-03-074
296-305-07013	NEW-C	96-03-026	308-93-740	NEW-P	96-07-030	314-14-060	NEW	96-03-074
296-305-07015	NEW-C	96-03-026	308-93-750	NEW-P	96-07-030	314-14-070	NEW	96-03-074
296-305-07017	NEW-C	96-03-026	308-93-760	NEW-P	96-07-030	314-14-080	NEW	96-03-074
296-305-07019	NEW-C	96-03-026	308-93-770	NEW-P	96-07-030	314-14-090	NEW	96-03-074
296-305-075	AMD-C	96-03-026	308-94-030	AMD	96-04-004	314-14-100	NEW	96-03-074
296-305-080	AMD-C	96-03-026	308-94-035	REP-P	96-09-039	314-14-110	NEW	96-03-074
296-305-08000	NEW-C	96-03-026	308-96A-035	AMD	96-04-004	314-14-120	NEW	96-03-074
296-305-085	AMD-C	96-03-026	308-96A-505	AMD-P	96-09-040	314-14-130	NEW	96-03-074
296-305-090	AMD-C	96-03-026	308-128A	PREP	96-06-084	314-14-140	NEW	96-03-074
296-305-095	AMD-C	96-03-026	308-128A-010	DECOD	96-05-018	314-14-150	NEW	96-03-074
296-305-100	AMD-C	96-03-026	308-128A-020	DECOD	96-05-018	314-14-160	NEW	96-03-074
296-305-105	AMD-C	96-03-026	308-128A-030	DECOD	96-05-018	314-16-196	AMD	96-03-005
296-305-110	AMD-C	96-03-026	308-128A-040	DECOD	96-05-018	314-20-100	AMD-P	96-07-101
296-305-115	AMD-C	96-03-026	308-128B	PREP	96-06-084	314-24-190	AMD-P	96-07-101
296-306	PREP	96-06-034	308-128B-010	DECOD	96-05-018	314-24-220	AMD-P	96-07-100
296-306	PREP	96-06-078	308-128B-020	DECOD	96-05-018	314-70-010	AMD	96-03-004
304-12-010	REP	96-04-045	308-128B-030	DECOD	96-05-018	314-70-030	AMD	96-03-004
304-12-020	REP	96-04-045	308-128B-050	DECOD	96-05-018	315-04-220	AMD	96-03-039
304-12-025	REP	96-04-045	308-128B-070	DECOD	96-05-018	315-06	PREP	96-09-103
304-12-145	AMD	96-04-045	308-128B-080	DECOD	96-05-018	315-10-050	PREP	96-03-156
304-12-290	AMD	96-04-045	308-128B-090	DECOD	96-05-018	315-10-050	REP-P	96-07-104
304-12-350	REP	96-04-045	308-128C	PREP	96-06-084	315-11A	PREP	96-08-004
304-25-010	REP	96-04-045	308-128C-020	DECOD	96-05-018	315-11A-157	NEW-W	96-03-038
304-25-020	REP	96-04-045	308-128C-030	DECOD	96-05-018	315-11A-157	NEW-P	96-03-157
304-25-030	REP	96-04-045	308-128C-040	DECOD	96-05-018	315-11A-157	NEW	96-07-015
304-25-040	REP	96-04-045	308-128C-050	DECOD	96-05-018	315-11A-158	NEW	96-03-039
304-25-050	REP	96-04-045	308-128D	PREP	96-06-084	315-11A-159	NEW	96-03-039
304-25-060	REP	96-04-045	308-128D-010	DECOD	96-05-018	315-11A-160	NEW	96-03-039
304-25-110	REP	96-04-045	308-128D-020	DECOD	96-05-018	315-11A-161	NEW	96-03-039
304-25-120	REP	96-04-045	308-128D-030	DECOD	96-05-018	315-11A-162	NEW-P	96-03-157

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
315-11A-162	NEW	96-07-015	332-24-221	AMD-P	96-08-027	365-185-060	NEW	96-04-046
315-11A-163	NEW-P	96-03-157	332-24-720	AMD	96-03-003	374-60-030	AMD	96-04-005
315-11A-163	NEW	96-07-015	356-05-171	REP-P	96-08-082	374-60-120	AMD	96-04-005
315-11A-164	NEW-P	96-03-157	356-05-171	REP-C	96-09-088	388-11-010	REP-P	96-06-039
315-11A-164	NEW	96-07-015	356-05-415	AMD-W	96-02-069	388-11-010	REP	96-09-036
315-11A-164	PREP	96-08-071	356-06-080	AMD-P	96-08-087	388-11-011	AMD-P	96-06-039
315-11A-164	PREP	96-09-103	356-10-020	AMD-P	96-08-087	388-11-011	AMD	96-09-036
315-11A-165	NEW-P	96-03-157	356-14-240	AMD	96-02-073	388-11-015	AMD-P	96-06-039
315-11A-165	NEW	96-07-015	356-14-260	AMD-P	96-08-082	388-11-015	AMD	96-09-036
315-11A-166	NEW-P	96-03-157	356-14-260	AMD-C	96-09-088	388-11-030	REP-P	96-06-039
315-11A-166	NEW	96-07-015	356-15-030	AMD-P	96-08-082	388-11-030	REP	96-09-036
315-11A-167	NEW-P	96-03-157	356-15-030	AMD-C	96-09-088	388-11-032	REP-P	96-06-039
315-11A-167	NEW	96-07-015	356-15-050	AMD	96-02-073	388-11-032	REP	96-09-036
315-11A-168	NEW-P	96-07-104	356-15-060	AMD-P	96-02-070	388-11-035	REP-P	96-06-039
315-11A-169	NEW-P	96-07-104	356-15-060	AMD-C	96-07-092	388-11-035	REP	96-09-036
315-11A-170	NEW-P	96-07-104	356-15-060	AMD-W	96-09-053	388-11-040	REP-P	96-06-039
315-11A-171	NEW-P	96-07-104	356-15-070	AMD	96-02-073	388-11-040	REP	96-09-036
315-11A-172	NEW-P	96-07-104	356-15-090	AMD	96-02-073	388-11-045	AMD-P	96-06-039
315-11A-173	NEW-P	96-07-104	356-15-110	AMD	96-02-073	388-11-045	AMD	96-09-036
315-34	PREP	96-08-004	356-18-060	AMD-P	96-08-082	388-11-048	AMD-P	96-06-039
317-21-020	AMD	96-03-070	356-18-060	AMD-C	96-09-088	388-11-048	AMD	96-09-036
317-21-030	AMD	96-03-070	356-18-080	AMD-P	96-08-082	388-11-055	REP-P	96-06-039
317-21-120	AMD	96-03-070	356-18-080	AMD-C	96-09-088	388-11-055	REP	96-09-036
317-21-200	AMD	96-03-070	356-18-110	AMD-P	96-08-082	388-11-060	REP-P	96-06-039
317-21-205	AMD	96-03-070	356-18-110	AMD-C	96-09-088	388-11-060	REP	96-09-036
317-21-210	AMD	96-03-070	356-18-112	AMD-W	96-02-069	388-11-065	AMD-P	96-06-039
317-21-215	AMD	96-03-070	356-18-112	AMD-P	96-08-083	388-11-065	AMD	96-09-036
317-21-235	AMD	96-03-070	356-18-116	AMD	96-02-073	388-11-120	AMD-P	96-06-039
317-21-245	AMD	96-03-070	356-18-140	AMD-P	96-08-082	388-11-120	AMD	96-09-036
317-21-265	AMD	96-03-070	356-18-140	AMD-C	96-09-088	388-11-140	AMD-P	96-06-039
317-21-320	AMD	96-03-070	356-18-145	AMD-P	96-08-082	388-11-140	AMD	96-09-036
317-21-345	AMD	96-03-070	356-18-145	AMD-C	96-09-088	388-11-150	AMD-P	96-06-039
317-21-500	AMD	96-03-070	356-18-150	AMD-P	96-08-082	388-11-150	AMD	96-09-036
317-21-530	AMD	96-03-070	356-18-150	AMD-C	96-09-088	388-11-210	AMD-P	96-06-039
317-21-540	AMD	96-03-070	356-22-220	AMD-P	96-08-085	388-11-210	AMD	96-09-036
317-30	REP-C	96-09-008	356-30-025	REP-W	96-02-069	388-11-215	AMD-P	96-06-039
317-30-010	REP-P	96-03-071	356-30-050	AMD	96-02-073	388-11-215	AMD	96-09-036
317-30-020	REP-P	96-03-071	356-30-065	AMD-W	96-02-069	388-11-220	AMD-P	96-06-039
317-30-030	REP-P	96-03-071	356-30-067	AMD-W	96-02-069	388-11-220	AMD	96-09-036
317-30-040	REP-P	96-03-071	356-30-230	AMD	96-02-073	388-11-280	NEW-P	96-06-039
317-30-050	REP-P	96-03-071	356-30-315	AMD	96-02-073	388-11-280	NEW	96-09-036
317-30-060	REP-P	96-03-071	356-30-330	AMD	96-02-073	388-11-285	NEW-P	96-06-039
317-30-070	REP-P	96-03-071	356-37-020	AMD-P	96-04-052A	388-11-285	NEW	96-09-036
317-30-080	REP-P	96-03-071	356-37-020	AMD	96-07-093	388-11-290	NEW-P	96-06-039
317-30-090	REP-P	96-03-071	356-37-030	AMD-P	96-04-052A	388-11-290	NEW	96-09-036
317-30-100	REP-P	96-03-071	356-37-030	AMD	96-07-093	388-11-295	NEW-P	96-06-039
317-30-110	REP-P	96-03-071	356-37-040	AMD-P	96-04-052A	388-11-295	NEW	96-09-036
317-30-120	REP-P	96-03-071	356-37-040	AMD	96-07-093	388-11-300	NEW-P	96-06-039
317-30-130	REP-P	96-03-071	356-37-050	AMD-P	96-04-052A	388-11-300	NEW	96-09-036
317-30-140	REP-P	96-03-071	356-37-050	AMD	96-07-093	388-11-305	NEW-P	96-06-039
317-30-150	REP-P	96-03-071	356-37-100	AMD-P	96-04-052A	388-11-305	NEW	96-09-036
317-30-900	REP-P	96-03-071	356-37-100	AMD	96-07-093	388-11-310	NEW-P	96-06-039
317-31	NEW-C	96-09-008	356-37-160	NEW-P	96-04-052A	388-11-310	NEW	96-09-036
317-31-010	NEW-P	96-03-071	356-37-160	NEW	96-07-093	388-11-315	NEW-P	96-06-039
317-31-020	NEW-P	96-03-071	356-37-170	NEW-P	96-04-052A	388-11-315	NEW	96-09-036
317-31-030	NEW-P	96-03-071	356-37-170	NEW	96-07-093	388-11-400	NEW-P	96-06-039
317-31-100	NEW-P	96-03-071	356-42-020	AMD-P	96-06-059	388-11-400	NEW	96-09-036
317-31-110	NEW-P	96-03-071	356-42-020	AMD-C	96-09-054	388-11-405	NEW-P	96-06-039
317-31-120	NEW-P	96-03-071	356-42-055	AMD-P	96-04-052A	388-11-405	NEW	96-09-036
317-31-130	NEW-P	96-03-071	356-42-055	AMD	96-07-093	388-11-410	NEW-P	96-06-039
317-31-140	NEW-P	96-03-071	356-46-080	AMD	96-02-073	388-11-410	NEW	96-09-036
317-31-200	NEW-P	96-03-071	356-56-115	AMD-P	96-08-089	388-11-415	NEW-P	96-06-039
317-31-210	NEW-P	96-03-071	365-185-010	NEW-E	96-03-045	388-11-415	NEW	96-09-036
317-31-220	NEW-P	96-03-071	365-185-010	NEW	96-04-046	388-11-420	NEW-P	96-06-039
317-31-230	NEW-P	96-03-071	365-185-020	NEW-E	96-03-045	388-11-420	NEW	96-09-036
317-31-240	NEW-P	96-03-071	365-185-020	NEW	96-04-046	388-11-425	NEW-P	96-06-039
317-31-250	NEW-P	96-03-071	365-185-030	NEW-E	96-03-045	388-11-425	NEW	96-09-036
317-31-300	NEW-P	96-03-071	365-185-030	NEW	96-04-046	388-11-430	NEW-P	96-06-039
317-31-310	NEW-P	96-03-071	365-185-040	NEW-E	96-03-045	388-11-430	NEW	96-09-036
317-31-900	NEW-P	96-03-071	365-185-040	NEW	96-04-046	388-15	PREP	96-06-009
317-50-999	NEW-E	96-08-002	365-185-050	NEW-E	96-03-045	388-15-134	PREP	96-09-076
326-30-041	PREP	96-07-089	365-185-050	NEW	96-04-046	388-15-145	AMD-P	96-06-014
326-40-030	PREP	96-07-088	365-185-060	NEW-E	96-03-045	388-15-145	AMD	96-09-035

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-15-900	REP-P	96-04-084	388-76-045	REP-P	96-06-040	388-76-625	NEW-P	96-06-040
388-15-905	REP-P	96-04-084	388-76-050	REP-P	96-06-040	388-76-630	NEW-P	96-06-040
388-15-910	REP-P	96-04-084	388-76-060	REP-P	96-06-040	388-76-635	NEW-P	96-06-040
388-15-915	REP-P	96-04-084	388-76-070	REP-P	96-06-040	388-76-640	NEW-P	96-06-040
388-15-920	REP-P	96-04-084	388-76-080	REP-P	96-06-040	388-76-645	NEW-P	96-06-040
388-15-925	REP-P	96-04-084	388-76-085	REP-P	96-06-040	388-76-650	NEW-P	96-06-040
388-15-935	REP-P	96-04-084	388-76-087	REP-P	96-06-040	388-76-655	NEW-P	96-06-040
388-15-940	REP-P	96-04-084	388-76-090	REP-P	96-06-040	388-76-660	NEW-P	96-06-040
388-15-945	REP-P	96-04-084	388-76-095	REP-P	96-06-040	388-76-665	NEW-P	96-06-040
388-15-950	REP-P	96-04-084	388-76-100	REP-P	96-06-040	388-76-670	NEW-P	96-06-040
388-15-955	REP-P	96-04-084	388-76-110	REP-P	96-06-040	388-76-675	NEW-P	96-06-040
388-49-020	AMD-P	96-03-013	388-76-130	REP-P	96-06-040	388-76-680	NEW-P	96-06-040
388-49-020	AMD	96-06-031	388-76-140	REP-P	96-06-040	388-76-685	NEW-P	96-06-040
388-49-160	PREP	96-07-094	388-76-155	REP-P	96-06-040	388-76-690	NEW-P	96-06-040
388-49-330	AMD-P	96-04-036	388-76-160	REP-P	96-06-040	388-76-695	NEW-P	96-06-040
388-49-330	AMD	96-07-053	388-76-170	REP-P	96-06-040	388-76-700	NEW-P	96-06-040
388-49-410	AMD-P	96-04-008	388-76-180	REP-P	96-06-040	388-76-705	NEW-P	96-06-040
388-49-410	AMD	96-07-022	388-76-185	REP-P	96-06-040	388-76-710	NEW-P	96-06-040
388-49-480	PREP	96-09-034	388-76-190	REP-P	96-06-040	388-76-715	NEW-P	96-06-040
388-49-500	AMD-P	96-03-097	388-76-200	REP-P	96-06-040	388-76-720	NEW-P	96-06-040
388-49-500	AMD	96-06-046	388-76-220	REP-P	96-06-040	388-76-725	NEW-P	96-06-040
388-49-670	AMD-P	96-03-095	388-76-240	REP-P	96-06-040	388-76-730	NEW-P	96-06-040
388-49-670	AMD	96-06-042	388-76-250	REP-P	96-06-040	388-76-735	NEW-P	96-06-040
388-55-006	NEW	96-05-009	388-76-260	REP-P	96-06-040	388-76-740	NEW-P	96-06-040
388-55-008	NEW	96-05-009	388-76-280	REP-P	96-06-040	388-76-745	NEW-P	96-06-040
388-55-010	AMD	96-05-009	388-76-290	REP-P	96-06-040	388-76-750	NEW-P	96-06-040
388-55-020	AMD	96-05-009	388-76-300	REP-P	96-06-040	388-76-755	NEW-P	96-06-040
388-55-024	NEW	96-05-009	388-76-310	REP-P	96-06-040	388-76-760	NEW-P	96-06-040
388-55-027	NEW	96-05-009	388-76-320	REP-P	96-06-040	388-76-765	NEW-P	96-06-040
388-55-030	AMD	96-05-009	388-76-325	REP-P	96-06-040	388-76-770	NEW-P	96-06-040
388-55-040	AMD	96-05-009	388-76-330	REP-P	96-06-040	388-76-775	NEW-P	96-06-040
388-55-050	NEW	96-05-009	388-76-340	REP-P	96-06-040	388-76-780	NEW-P	96-06-040
388-55-060	NEW	96-05-009	388-76-350	REP-P	96-06-040	388-76-785	NEW-P	96-06-040
388-73-012	AMD-P	96-06-051	388-76-360	REP-P	96-06-040	388-76-790	NEW-P	96-06-040
388-73-012	AMD-E	96-07-079	388-76-370	REP-P	96-06-040	388-76-795	NEW-P	96-06-040
388-73-014	AMD-P	96-06-051	388-76-380	REP-P	96-06-040	388-86	PREP	96-07-042
388-73-014	AMD-E	96-07-079	388-76-390	REP-P	96-06-040	388-86	PREP	96-07-043
388-73-01950	AMD-P	96-06-051	388-76-400	REP-P	96-06-040	388-86	PREP	96-07-044
388-73-01950	AMD-E	96-07-079	388-76-405	REP-P	96-06-040	388-86	PREP	96-07-045
388-73-020	AMD-P	96-06-051	388-76-410	REP-P	96-06-040	388-87	PREP	96-07-042
388-73-020	AMD-E	96-07-079	388-76-420	REP-P	96-06-040	388-87	PREP	96-07-043
388-73-030	AMD-C	96-03-105	388-76-430	REP-P	96-06-040	388-87	PREP	96-07-044
388-73-030	AMD-S	96-05-061	388-76-435	REP-P	96-06-040	388-87	PREP	96-07-045
388-73-030	RESCIND	96-05-067	388-76-440	REP-P	96-06-040	388-87-020	PREP	96-08-091
388-73-030	AMD-E	96-05-068	388-76-450	REP-P	96-06-040	388-96	PREP	96-07-024
388-73-036	AMD-S	96-05-061	388-76-460	REP-P	96-06-040	388-110	NEW-C	96-09-032
388-73-036	AMD-E	96-05-068	388-76-465	REP-P	96-06-040	388-110-005	NEW-P	96-04-084
388-73-048	AMD-P	96-06-051	388-76-467	REP-P	96-06-040	388-110-010	NEW-P	96-04-084
388-73-048	AMD-E	96-07-079	388-76-470	REP-P	96-06-040	388-110-020	NEW-P	96-04-084
388-73-054	AMD-P	96-06-051	388-76-475	REP-P	96-06-040	388-110-030	NEW-P	96-04-084
388-73-054	AMD-E	96-07-079	388-76-480	REP-P	96-06-040	388-110-040	NEW-P	96-04-084
388-73-606	AMD-P	96-06-051	388-76-490	REP-P	96-06-040	388-110-050	NEW-P	96-04-084
388-73-606	AMD-E	96-07-079	388-76-500	REP-P	96-06-040	388-110-060	NEW-P	96-04-084
388-73-800	AMD-P	96-06-051	388-76-520	REP-P	96-06-040	388-110-070	NEW-P	96-04-084
388-73-800	AMD-E	96-07-079	388-76-530	REP-P	96-06-040	388-110-080	NEW-P	96-04-084
388-73-803	NEW-P	96-06-051	388-76-535	NEW-P	96-06-040	388-110-090	NEW-P	96-04-084
388-73-803	NEW-E	96-07-079	388-76-540	NEW-P	96-06-040	388-110-100	NEW-P	96-04-084
388-73-805	NEW-P	96-06-051	388-76-545	NEW-P	96-06-040	388-110-110	NEW-P	96-04-084
388-73-805	NEW-E	96-07-079	388-76-550	NEW-P	96-06-040	388-110-120	NEW-P	96-04-084
388-73-815	AMD-P	96-06-051	388-76-555	NEW-P	96-06-040	388-110-140	NEW-P	96-04-084
388-73-815	AMD-E	96-07-079	388-76-560	NEW-P	96-06-040	388-110-150	NEW-P	96-04-084
388-73-821	NEW-P	96-06-051	388-76-565	NEW-P	96-06-040	388-110-170	NEW-P	96-04-084
388-73-821	NEW-E	96-07-079	388-76-570	NEW-P	96-06-040	388-110-180	NEW-P	96-04-084
388-73-822	NEW-P	96-06-051	388-76-575	NEW-P	96-06-040	388-110-190	NEW-P	96-04-084
388-73-822	NEW-E	96-07-079	388-76-580	NEW-P	96-06-040	388-110-200	NEW-P	96-04-084
388-73-823	NEW-P	96-06-051	388-76-585	NEW-P	96-06-040	388-110-210	NEW-P	96-04-084
388-73-823	NEW-E	96-07-079	388-76-590	NEW-P	96-06-040	388-110-220	NEW-P	96-04-084
388-73-825	NEW-P	96-06-051	388-76-595	NEW-P	96-06-040	388-110-230	NEW-P	96-04-084
388-73-825	NEW-E	96-07-079	388-76-600	NEW-P	96-06-040	388-110-240	NEW-P	96-04-084
388-76-010	REP-P	96-06-040	388-76-605	NEW-P	96-06-040	388-110-250	NEW-P	96-04-084
388-76-020	REP-P	96-06-040	388-76-610	NEW-P	96-06-040	388-110-260	NEW-P	96-04-084
388-76-030	REP-P	96-06-040	388-76-615	NEW-P	96-06-040	388-110-270	NEW-P	96-04-084
388-76-040	REP-P	96-06-040	388-76-620	NEW-P	96-06-040	388-110-280	NEW-P	96-04-084

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-150-090	AMD-C	96-03-105	388-235-5050	PREP	96-08-041A	390-05-245	NEW-P	96-05-072
388-150-090	AMD-S	96-05-061	388-245-2020	AMD-P	96-04-035	390-05-245	NEW	96-09-015
388-150-090	RESCIND	96-05-067	388-245-2020	AMD	96-07-025	390-05-400	NEW	96-04-021
388-150-090	AMD-E	96-05-068	388-250-1400	AMD	96-04-002	390-13-010	AMD	96-05-001
388-151-090	AMD-C	96-03-105	388-250-1700	AMD-P	96-07-008	390-16-034	AMD	96-05-001
388-151-090	AMD-S	96-05-061	388-270-1125	PREP	96-06-008	390-16-037	AMD	96-05-001
388-151-090	RESCIND	96-05-067	388-290-135	AMD-P	96-06-026	390-16-038	AMD-P	96-05-073
388-151-090	AMD-E	96-05-068	388-290-135	AMD	96-09-058	390-16-038	AMD	96-09-016
388-155-060	AMD-P	96-07-010	388-330-010	AMD-C	96-03-105	390-16-055	AMD	96-05-001
388-155-070	AMD-P	96-07-010	388-330-010	AMD-S	96-05-061	390-16-190	NEW	96-04-020
388-155-090	AMD-C	96-03-105	388-330-010	RESCIND	96-05-067	390-16-310	AMD	96-05-001
388-155-090	AMD-S	96-05-061	388-330-010	AMD-E	96-05-068	390-16-313	NEW-P	96-05-073
388-155-090	RESCIND	96-05-067	388-330-035	NEW-C	96-03-105	390-16-313	NEW	96-09-016
388-155-090	AMD-E	96-05-068	388-330-035	NEW-S	96-05-061	390-16-314	NEW-P	96-05-073
388-155-600	NEW-P	96-07-010	388-330-035	RESCIND	96-05-067	390-16-314	NEW	96-09-016
388-155-605	NEW-P	96-07-010	388-330-035	NEW-E	96-05-068	390-17-017	AMD	96-05-001
388-155-610	NEW-P	96-07-010	388-501-0130	AMD-P	96-03-066	390-17-030	AMD	96-05-001
388-155-620	NEW-P	96-07-010	388-501-0130	AMD	96-06-041	390-17-050	REP-P	96-05-073
388-155-630	NEW-P	96-07-010	388-503-0310	PREP	96-04-025	390-17-050	REP	96-09-016
388-155-640	NEW-P	96-07-010	388-503-0310	AMD-P	96-09-077	390-17-052	REP-P	96-05-073
388-155-650	NEW-P	96-07-010	388-505-0540	PREP	96-08-091	390-17-052	REP	96-09-016
388-155-660	NEW-P	96-07-010	388-507-0710	AMD-P	96-06-010	390-17-060	AMD	96-05-001
388-155-670	NEW-P	96-07-010	388-507-0710	AMD-E	96-08-036	390-17-065	AMD	96-05-001
388-155-680	NEW-P	96-07-010	388-507-0710	AMD	96-09-033	390-17-310	AMD	96-05-001
388-160	PREP	96-05-057	388-507-0740	AMD-P	96-04-037	390-17-315	AMD	96-05-001
388-160-050	PREP	96-05-057	388-507-0740	AMD	96-07-023	390-17-320	AMD	96-05-001
388-160-080	PREP	96-05-057	388-508-0805	PREP	96-08-019	390-20-052	AMD	96-05-001
388-160-090	AMD-C	96-03-105	388-508-0805	AMD-E	96-08-021	390-24-010	AMD-S	96-05-074
388-160-090	AMD-S	96-05-061	388-509-0920	PREP	96-05-035	390-24-010	AMD	96-09-017
388-160-090	RESCIND	96-05-067	388-509-0920	AMD-E	96-08-021	390-24-020	AMD-S	96-05-074
388-160-090	AMD-E	96-05-068	388-509-0960	AMD-E	96-08-021	390-24-020	AMD	96-09-017
388-160-120	AMD-S	96-05-061	388-511-1140	AMD	96-05-010	391-08-001	AMD-P	96-03-135
388-160-120	AMD-E	96-05-068	388-513-1315	AMD-P	96-08-037	391-08-001	AMD	96-07-105
388-160-430	PREP	96-05-057	388-513-1320	AMD-P	96-08-037	391-08-030	AMD-P	96-03-135
388-160-460	PREP	96-05-057	388-513-1350	AMD-P	96-06-010	391-08-030	AMD	96-07-105
388-160-480	PREP	96-05-057	388-513-1350	AMD-E	96-08-020	391-08-040	AMD-P	96-03-135
388-160-490	PREP	96-05-057	388-513-1350	AMD	96-09-033	391-08-040	AMD	96-07-105
388-160-500	PREP	96-05-057	388-513-1360	PREP	96-04-055	391-08-040	AMD	96-07-105
388-200	PREP	96-07-041	388-513-1360	AMD-P	96-09-079	391-08-120	AMD-P	96-03-135
388-200-1300	PREP	96-07-041	388-513-1365	PREP	96-05-034	391-08-120	AMD	96-07-105
388-200-1350	PREP	96-07-041	388-513-1380	AMD-P	96-06-010	391-08-180	AMD-P	96-03-135
388-201-200	AMD-P	96-04-034	388-513-1380	AMD-E	96-08-020	391-08-180	AMD	96-07-105
388-201-200	AMD	96-07-021	388-513-1380	AMD	96-09-033	391-08-650	NEW-P	96-03-135
388-201-300	AMD-P	96-04-034	388-515-1505	PREP	96-03-098	391-08-650	NEW	96-07-105
388-201-300	AMD	96-07-021	388-517-1720	PREP	96-08-019	391-08-670	NEW-P	96-03-135
388-201-400	AMD-P	96-04-034	388-517-1720	AMD-E	96-08-021	391-08-670	NEW	96-07-105
388-201-400	AMD	96-07-021	388-517-1720	PREP	96-08-019	391-08-820	AMD-P	96-03-135
388-201-410	AMD-P	96-04-034	388-517-1740	PREP	96-08-019	391-08-820	AMD	96-07-105
388-201-410	AMD	96-07-021	388-517-1740	AMD-E	96-08-021	391-25-001	AMD-P	96-03-135
388-201-420	AMD-P	96-04-034	388-517-1760	PREP	96-08-019	391-25-001	AMD	96-07-105
388-201-420	AMD	96-07-021	388-517-1760	AMD-E	96-08-021	391-25-001	AMD	96-07-105
388-201-430	AMD-P	96-04-034	388-518-1820	AMD-P	96-04-037	391-25-011	NEW-P	96-03-135
388-201-430	AMD	96-07-021	388-518-1820	AMD	96-07-023	391-25-011	NEW	96-07-105
388-201-440	AMD-P	96-04-034	388-519-1905	PREP	96-07-004	391-25-030	AMD-P	96-03-135
388-201-440	AMD	96-07-021	388-519-1910	PREP	96-04-056	391-25-030	AMD	96-07-105
388-201-450	AMD-P	96-04-034	388-519-1930	PREP	96-04-056	391-25-050	AMD-P	96-03-135
388-201-450	AMD	96-07-021	388-522-2230	PREP	96-07-004	391-25-050	AMD	96-07-105
388-201-460	AMD-P	96-04-034	388-528-2810	PREP	96-04-024	391-25-070	AMD-P	96-03-135
388-201-460	AMD	96-07-021	388-530-1950	PREP	96-05-087	391-25-070	AMD	96-07-105
388-201-470	AMD-P	96-04-034	388-530-1950	NEW-P	96-05-087	391-25-090	AMD-P	96-03-135
388-201-470	AMD	96-07-021	388-531	NEW	96-08-018	391-25-090	AMD	96-07-105
388-201-480	AMD-P	96-04-034	388-535	PREP	96-07-045	391-25-110	AMD-P	96-03-135
388-201-480	AMD	96-07-021	388-535	PREP	96-08-030	391-25-110	AMD	96-07-105
388-215-1390	PREP	96-03-096	388-535-1000	PREP	96-08-031	391-25-130	AMD-P	96-03-135
388-215-1390	AMD-E	96-04-001	388-535-1100	PREP	96-08-031	391-25-130	AMD	96-07-105
388-215-1390	AMD-P	96-07-009	388-538-080	PREP	96-08-032	391-25-140	AMD	96-07-105
388-215-1600	AMD-P	96-03-099	388-543	PREP	96-07-042	391-25-140	AMD-P	96-03-135
388-215-1600	AMD	96-06-045	388-546	PREP	96-07-042	391-25-170	AMD	96-07-105
388-215-1610	AMD-P	96-03-099	388-550	PREP	96-07-044	391-25-170	AMD	96-07-105
388-215-1610	AMD	96-06-045	390-05-190	PREP	96-05-072	391-25-190	AMD-P	96-03-135
388-218-1510	AMD	96-03-040	390-05-190	AMD-P	96-09-015	391-25-190	AMD	96-07-105
388-219-3000	AMD-P	96-07-014	390-05-200	AMD	96-05-001	391-25-220	AMD-P	96-03-135
388-219-3000	AMD-E	96-09-075	390-05-205	AMD	96-05-001	391-25-220	AMD	96-07-105
			390-05-210	AMD-P	96-05-072	391-25-230	AMD-P	96-03-135
			390-05-210	AMD	96-09-015	391-25-230	AMD	96-07-105

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
391-25-250	AMD-P	96-03-135	391-55-200	AMD	96-07-105	392-101-010	PREP	96-07-036
391-25-250	AMD	96-07-105	391-55-205	AMD-P	96-03-135	392-109-040	AMD-P	96-04-033
391-25-350	AMD-P	96-03-135	391-55-205	AMD	96-07-105	392-109-040	AMD	96-08-001
391-25-350	AMD	96-07-105	391-55-210	AMD-P	96-03-135	392-109-047	AMD-P	96-04-033
391-25-370	AMD-P	96-03-135	391-55-210	AMD	96-07-105	392-109-047	AMD	96-08-001
391-25-370	AMD	96-07-105	391-55-215	AMD-P	96-03-135	392-109-058	AMD-P	96-04-033
391-25-391	AMD-P	96-03-135	391-55-215	AMD	96-07-105	392-109-058	AMD	96-08-001
391-25-391	AMD	96-07-105	391-55-220	AMD-P	96-03-135	392-109-065	AMD-P	96-04-033
391-25-410	AMD-P	96-03-135	391-55-220	AMD	96-07-105	392-109-065	AMD	96-08-001
391-25-410	AMD	96-07-105	391-55-225	AMD-P	96-03-135	392-109-070	AMD-P	96-04-033
391-25-430	AMD-P	96-03-135	391-55-225	AMD	96-07-105	392-109-070	AMD	96-08-001
391-25-430	AMD	96-07-105	391-55-230	AMD-P	96-03-135	392-109-072	AMD-P	96-04-033
391-25-470	AMD-P	96-03-135	391-55-230	AMD	96-07-105	392-109-072	AMD	96-08-001
391-25-470	AMD	96-07-105	391-55-235	AMD-P	96-03-135	392-109-085	AMD-P	96-04-033
391-25-490	AMD-P	96-03-135	391-55-235	AMD	96-07-105	392-109-085	AMD	96-08-001
391-25-490	AMD	96-07-105	391-55-240	AMD-P	96-03-135	392-109-090	AMD-P	96-04-033
391-25-510	AMD-P	96-03-135	391-55-240	AMD	96-07-105	392-109-090	AMD	96-08-001
391-25-510	AMD	96-07-105	391-55-245	AMD-P	96-03-135	392-109-100	AMD-P	96-04-033
391-25-550	AMD-P	96-03-135	391-55-245	AMD	96-07-105	392-109-100	AMD	96-08-001
391-25-550	AMD	96-07-105	391-55-255	AMD-P	96-03-135	392-109-105	AMD-P	96-04-033
391-25-590	AMD-P	96-03-135	391-55-255	AMD	96-07-105	392-109-105	AMD	96-08-001
391-25-590	AMD	96-07-105	391-55-260	REP-P	96-03-135	392-109-120	AMD-P	96-04-033
391-35-001	AMD-P	96-03-135	391-55-260	REP	96-07-105	392-109-120	AMD	96-08-001
391-35-001	AMD	96-07-105	391-55-315	AMD-P	96-03-135	392-120	PREP	96-06-061
391-35-010	AMD-P	96-03-135	391-55-315	AMD	96-07-105	392-121-435	NEW	96-03-001
391-35-010	AMD	96-07-105	391-55-345	AMD-P	96-03-135	392-122-100	AMD	96-03-002
391-35-020	AMD-P	96-03-135	391-55-345	AMD	96-07-105	392-122-105	AMD	96-03-002
391-35-020	AMD	96-07-105	391-55-360	REP-P	96-03-135	392-122-106	AMD	96-03-002
391-35-030	AMD-P	96-03-135	391-55-360	REP	96-07-105	392-122-107	AMD	96-03-002
391-35-030	AMD	96-07-105	391-55-400	REP-P	96-03-135	392-122-110	AMD	96-03-002
391-35-050	AMD-P	96-03-135	391-55-400	REP	96-07-105	392-122-110	AMD	96-03-002
391-35-050	AMD	96-07-105	391-55-410	REP-P	96-03-135	392-122-120	AMD	96-03-002
391-35-080	AMD-P	96-03-135	391-55-410	REP	96-07-105	392-122-130	AMD	96-03-002
391-35-080	AMD	96-07-105	391-55-415	REP-P	96-03-135	392-122-131	AMD	96-03-002
391-35-110	AMD-P	96-03-135	391-55-415	REP	96-07-105	392-122-132	AMD	96-03-002
391-35-110	AMD	96-07-105	391-55-420	REP-P	96-03-135	392-122-135	AMD	96-03-002
391-35-170	AMD-P	96-03-135	391-55-420	REP	96-07-105	392-122-140	AMD	96-03-002
391-35-170	AMD	96-07-105	391-55-425	REP-P	96-03-135	392-122-145	AMD	96-03-002
391-35-300	NEW-P	96-03-135	391-55-425	REP	96-07-105	392-122-150	AMD	96-03-002
391-35-300	NEW	96-07-105	391-55-430	REP-P	96-03-135	392-122-155	AMD	96-03-002
391-35-310	NEW-P	96-03-135	391-55-430	REP	96-07-105	392-122-160	AMD	96-03-002
391-35-310	NEW	96-07-105	391-55-435	REP-P	96-03-135	392-122-165	AMD	96-03-002
391-45-001	AMD-P	96-03-135	391-55-435	REP	96-07-105	392-122-166	NEW	96-03-002
391-45-001	AMD	96-07-105	391-55-440	REP-P	96-03-135	392-122-710	AMD	96-03-002
391-45-030	AMD-P	96-03-135	391-55-440	REP	96-07-105	392-122-805	AMD	96-03-002
391-45-030	AMD	96-07-105	391-55-445	REP-P	96-03-135	392-122-900	AMD	96-03-002
391-45-050	AMD-P	96-03-135	391-55-445	REP	96-07-105	392-123-054	AMD-P	96-05-031
391-45-050	AMD	96-07-105	391-55-450	REP-P	96-03-135	392-123-054	AMD	96-08-058
391-45-110	AMD-P	96-03-135	391-55-450	REP	96-07-105	392-123-078	AMD-P	96-05-031
391-45-110	AMD	96-07-105	391-55-455	REP-P	96-03-135	392-123-078	AMD	96-09-001
391-45-130	AMD-P	96-03-135	391-55-455	REP	96-07-105	392-123-079	AMD-P	96-05-031
391-45-130	AMD	96-07-105	391-65-030	AMD-P	96-03-135	392-123-079	AMD	96-09-001
391-45-170	AMD-P	96-03-135	391-65-030	AMD	96-07-105	392-127-011	AMD-P	96-02-077
391-45-170	AMD	96-07-105	391-65-030	AMD	96-03-135	392-127-011	AMD	96-05-022
391-45-190	AMD-P	96-03-135	391-65-050	AMD-P	96-07-105	392-127-015	AMD-P	96-02-077
391-45-190	AMD	96-07-105	391-65-050	AMD	96-03-135	392-127-015	AMD	96-05-022
391-45-260	AMD-P	96-03-135	391-65-110	AMD-P	96-03-135	392-127-020	AMD-P	96-02-077
391-45-260	AMD	96-07-105	391-65-110	AMD	96-07-105	392-127-020	AMD	96-05-022
391-45-270	AMD-P	96-03-135	391-65-130	AMD-P	96-03-135	392-127-050	AMD-P	96-02-077
391-45-270	AMD	96-07-105	391-65-130	AMD	96-07-105	392-127-050	AMD	96-05-022
391-45-290	AMD-P	96-03-135	391-95-001	AMD-P	96-03-135	392-127-055	AMD-P	96-02-077
391-45-290	AMD	96-07-105	391-95-001	AMD	96-07-105	392-127-055	AMD	96-05-022
391-45-330	AMD-P	96-03-135	391-95-090	AMD-P	96-03-135	392-127-060	AMD-P	96-02-077
391-45-330	AMD	96-07-105	391-95-090	AMD	96-07-105	392-127-060	AMD	96-05-022
391-45-431	REP-P	96-03-135	391-95-110	AMD-P	96-03-135	392-127-070	AMD-P	96-02-077
391-45-431	REP	96-07-105	391-95-110	AMD	96-07-105	392-127-070	AMD	96-05-022
391-55-002	AMD-P	96-03-135	391-95-170	AMD-P	96-03-135	392-127-080	AMD-P	96-02-077
391-55-002	AMD	96-07-105	391-95-170	AMD	96-07-105	392-127-080	AMD	96-05-022
391-55-010	AMD-P	96-03-135	391-95-230	AMD-P	96-03-135	392-127-090	AMD-P	96-02-077
391-55-010	AMD	96-07-105	391-95-230	AMD	96-07-105	392-127-090	AMD	96-05-022
391-55-090	AMD-P	96-03-135	391-95-260	AMD-P	96-03-135	392-140-450	AMD-P	96-02-078
391-55-090	AMD	96-07-105	391-95-260	AMD	96-07-105	392-140-450	AMD	96-05-021
391-55-200	AMD-P	96-03-135	391-95-270	AMD-P	96-03-135	392-140-461	AMD-P	96-02-078
			391-95-270	AMD	96-07-105	392-140-461	AMD	96-05-021

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
392-140-462	AMD-P	96-02-078	419-64-060	DECOD	96-06-011	434-75-170	REP-E	96-03-140
392-140-462	AMD	96-05-021	419-64-070	DECOD	96-06-011	434-75-170	REP	96-03-141
392-140-470	AMD-P	96-02-078	419-64-080	DECOD	96-06-011	434-75-180	AMD-E	96-03-140
392-140-470	AMD	96-05-021	419-64-090	DECOD	96-06-011	434-75-180	AMD	96-03-141
392-140-476	AMD-P	96-02-078	419-72-010	DECOD	96-06-011	434-75-180	DECOD	96-03-141
392-140-476	AMD	96-05-021	419-72-012	DECOD	96-06-011	434-75-190	AMD-E	96-03-140
392-140-480	AMD-P	96-02-078	419-72-015	DECOD	96-06-011	434-75-190	AMD	96-03-141
392-140-480	AMD	96-05-021	419-72-015	PREP	96-09-005	434-75-190	DECOD	96-03-141
392-140-483	AMD-P	96-02-078	419-72-020	DECOD	96-06-011	434-75-200	REP-E	96-03-140
392-140-483	AMD	96-05-021	419-72-025	DECOD	96-06-011	434-75-200	REP	96-03-141
392-140-490	AMD-P	96-02-078	419-72-041	DECOD	96-06-011	434-75-210	AMD-E	96-03-140
392-140-490	AMD	96-05-021	419-72-045	DECOD	96-06-011	434-75-210	AMD	96-03-141
392-140-491	AMD-P	96-02-078	419-72-050	DECOD	96-06-011	434-75-210	DECOD	96-03-141
392-140-491	AMD	96-05-021	419-72-060	DECOD	96-06-011	434-75-220	AMD-E	96-03-140
392-140-492	AMD-P	96-02-078	419-72-065	DECOD	96-06-011	434-75-220	AMD	96-03-141
392-140-492	AMD	96-05-021	419-72-070	DECOD	96-06-011	434-75-220	DECOD	96-03-141
392-140-494	AMD-P	96-02-078	419-72-075	DECOD	96-06-011	434-75-230	AMD-E	96-03-140
392-140-494	AMD	96-05-021	419-72-080	DECOD	96-06-011	434-75-230	AMD	96-03-141
392-140-497	AMD-P	96-02-078	419-80-010	DECOD	96-06-011	434-75-230	DECOD	96-03-141
392-140-497	AMD	96-05-021	419-80-020	DECOD	96-06-011	434-75-240	AMD-E	96-03-140
392-141	PREP	96-09-067	419-80-030	DECOD	96-06-011	434-75-240	AMD	96-03-141
392-142	PREP	96-09-068	419-80-040	DECOD	96-06-011	434-75-240	DECOD	96-03-141
392-143	PREP	96-09-069	419-80-050	DECOD	96-06-011	434-75-250	AMD-E	96-03-140
392-320	PREP	96-07-050	419-80-060	DECOD	96-06-011	434-75-250	AMD	96-03-141
415	PREP	96-06-079	419-80-070	DECOD	96-06-011	434-75-250	DECOD	96-03-141
415-02-099	REP	96-03-100	434-75-010	AMD-E	96-03-140	434-75-260	AMD-E	96-03-140
415-08-010	AMD-P	96-07-080	434-75-010	AMD	96-03-141	434-75-260	AMD	96-03-141
415-08-020	AMD-P	96-07-080	434-75-010	DECOD	96-03-141	434-75-260	DECOD	96-03-141
415-08-023	NEW-P	96-07-080	434-75-020	AMD-E	96-03-140	434-75-270	AMD-E	96-03-140
415-08-025	AMD-P	96-07-080	434-75-020	AMD	96-03-141	434-75-270	AMD	96-03-141
415-08-027	NEW-P	96-07-080	434-75-020	DECOD	96-03-141	434-75-270	DECOD	96-03-141
415-08-030	AMD-P	96-07-080	434-75-030	AMD-E	96-03-140	434-75-280	AMD-E	96-03-140
415-08-040	AMD-P	96-07-080	434-75-030	AMD	96-03-141	434-75-280	AMD	96-03-141
415-08-050	AMD-P	96-07-080	434-75-030	DECOD	96-03-141	434-75-280	DECOD	96-03-141
415-08-080	AMD-P	96-07-080	434-75-040	AMD-E	96-03-140	434-75-290	AMD-E	96-03-140
415-08-090	AMD-P	96-07-080	434-75-040	AMD	96-03-141	434-75-290	AMD	96-03-141
415-08-100	AMD-P	96-07-080	434-75-040	DECOD	96-03-141	434-75-290	DECOD	96-03-141
415-08-105	AMD-P	96-07-080	434-75-050	AMD-E	96-03-140	434-75-300	REP-E	96-03-140
415-08-280	AMD-P	96-07-080	434-75-050	AMD	96-03-141	434-75-300	REP	96-03-141
415-08-420	AMD-P	96-07-080	434-75-050	DECOD	96-03-141	434-75-310	AMD-E	96-03-140
415-104-0125	NEW	96-04-003	434-75-060	AMD-E	96-03-140	434-75-310	AMD	96-03-141
415-104-108	AMD	96-03-100	434-75-060	AMD	96-03-141	434-75-310	DECOD	96-03-141
415-108-340	AMD	96-03-100	434-75-060	DECOD	96-03-141	434-75-320	AMD-E	96-03-140
415-112-040	AMD	96-03-100	434-75-070	AMD-E	96-03-140	434-75-320	AMD	96-03-141
419-18	PREP	96-03-037	434-75-070	AMD	96-03-141	434-75-320	DECOD	96-03-141
419-18-020	DECOD	96-06-011	434-75-070	DECOD	96-03-141	434-75-330	AMD-E	96-03-140
419-18-030	DECOD	96-06-011	434-75-080	AMD-E	96-03-140	434-75-330	AMD	96-03-141
419-18-040	DECOD	96-06-011	434-75-080	AMD	96-03-141	434-75-330	DECOD	96-03-141
419-18-045	DECOD	96-06-011	434-75-080	DECOD	96-03-141	434-75-340	AMD-E	96-03-140
419-18-050	DECOD	96-06-011	434-75-080	DECOD	96-03-141	434-75-340	AMD	96-03-141
419-18-060	DECOD	96-06-011	434-75-090	AMD-E	96-03-140	434-75-340	DECOD	96-03-141
419-18-060	DECOD	96-06-011	434-75-090	AMD	96-03-141	434-75-340	AMD	96-03-141
419-18-070	DECOD	96-06-011	434-75-090	DECOD	96-03-141	434-75-350	AMD-E	96-03-140
419-18-080	DECOD	96-06-011	434-75-090	DECOD	96-03-141	434-75-350	AMD	96-03-141
419-18-080	DECOD	96-06-011	434-75-100	AMD-E	96-03-140	434-75-350	DECOD	96-03-141
419-36-010	DECOD	96-06-011	434-75-100	AMD	96-03-141	434-120-100	AMD-P	96-05-089
419-36-020	DECOD	96-06-011	434-75-100	DECOD	96-03-141	434-120-105	AMD-P	96-05-089
419-36-030	DECOD	96-06-011	434-75-110	AMD-E	96-03-140	434-120-130	AMD-P	96-05-089
419-36-030	DECOD	96-06-011	434-75-110	AMD	96-03-141	434-120-130	AMD-P	96-05-089
419-36-040	DECOD	96-06-011	434-75-110	DECOD	96-03-141	434-120-140	AMD-P	96-05-089
419-36-050	DECOD	96-06-011	434-75-110	DECOD	96-03-141	434-120-225	AMD-P	96-05-089
419-36-060	DECOD	96-06-011	434-75-120	AMD-E	96-03-140	434-120-255	AMD-P	96-05-089
419-36-070	DECOD	96-06-011	434-75-120	AMD	96-03-141	434-120-300	AMD-P	96-05-088
419-36-080	DECOD	96-06-011	434-75-120	DECOD	96-03-141	434-120-300	AMD	96-08-049
419-36-090	DECOD	96-06-011	434-75-120	DECOD	96-03-141	434-120-335	AMD-P	96-05-088
419-40-010	DECOD	96-06-011	434-75-130	AMD-E	96-03-140	434-120-335	AMD	96-08-049
419-40-010	DECOD	96-06-011	434-75-130	AMD	96-03-141	434-120-335	AMD	96-08-049
419-40-020	DECOD	96-06-011	434-75-130	DECOD	96-03-141	434-166-260	AMD-P	96-07-069
419-40-030	DECOD	96-06-011	434-75-140	AMD-E	96-03-140	434-166-280	AMD-P	96-07-069
419-40-040	DECOD	96-06-011	434-75-140	AMD	96-03-141	434-166-290	AMD-P	96-07-069
419-40-050	DECOD	96-06-011	434-75-140	DECOD	96-03-141	434-219-010	RECOD	96-03-141
419-44-010	DECOD	96-06-011	434-75-150	AMD-E	96-03-140	434-219-020	RECOD	96-03-141
419-64-010	DECOD	96-06-011	434-75-150	AMD	96-03-141	434-219-030	RECOD	96-03-141
419-64-020	DECOD	96-06-011	434-75-150	DECOD	96-03-141	434-219-040	RECOD	96-03-141
419-64-030	DECOD	96-06-011	434-75-160	AMD-E	96-03-140	434-219-050	RECOD	96-03-141
419-64-040	DECOD	96-06-011	434-75-160	AMD	96-03-141	434-219-050	RECOD	96-03-141
419-64-050	DECOD	96-06-011	434-75-160	DECOD	96-03-141	434-219-060	RECOD	96-03-141

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
434-219-070	RECOD	96-03-141	460-10A-095	REP-P	96-07-084	468-86-040	NEW-W	96-05-032
434-219-080	RECOD	96-03-141	460-10A-100	REP-P	96-07-084	468-86-050	NEW-W	96-05-032
434-219-090	RECOD	96-03-141	460-10A-105	REP-P	96-07-084	468-86-060	NEW-W	96-05-032
434-219-100	RECOD	96-03-141	460-10A-110	AMD-P	96-07-084	468-86-070	NEW-W	96-05-032
434-219-110	RECOD	96-03-141	460-10A-115	REP-P	96-07-084	468-86-080	NEW-W	96-05-032
434-219-120	RECOD	96-03-141	460-10A-120	REP-P	96-07-084	468-86-090	NEW-W	96-05-032
434-219-130	RECOD	96-03-141	460-10A-125	REP-P	96-07-084	468-86-100	NEW-W	96-05-032
434-219-140	RECOD	96-03-141	460-10A-130	AMD-P	96-07-084	468-86-110	NEW-W	96-05-032
434-219-150	RECOD	96-03-141	460-10A-135	REP-P	96-07-084	468-86-120	NEW-W	96-05-032
434-219-160	RECOD	96-03-141	460-10A-140	REP-P	96-07-084	468-86-130	NEW-W	96-05-032
434-219-180	RECOD	96-03-141	460-10A-145	REP-P	96-07-084	468-86-140	NEW-W	96-05-032
434-219-190	RECOD	96-03-141	460-10A-150	REP-P	96-07-084	468-86-150	NEW-W	96-05-032
434-219-210	RECOD	96-03-141	460-10A-155	REP-P	96-07-084	468-86-160	NEW-W	96-05-032
434-219-220	RECOD	96-03-141	460-10A-170	AMD-P	96-07-084	468-86-170	NEW-W	96-05-032
434-219-230	RECOD	96-03-141	460-10A-180	AMD-P	96-07-084	468-86-180	NEW-W	96-05-032
434-219-240	RECOD	96-03-141	460-10A-185	NEW-P	96-07-084	468-86-190	NEW-W	96-05-032
434-219-250	RECOD	96-03-141	460-10A-190	NEW-P	96-07-084	468-86-200	NEW-W	96-05-032
434-219-260	RECOD	96-03-141	460-10A-195	NEW-P	96-07-084	468-86-210	NEW-W	96-05-032
434-219-270	RECOD	96-03-141	460-10A-200	NEW-P	96-07-084	468-86-220	NEW-W	96-05-032
434-219-280	RECOD	96-03-141	460-10A-205	NEW-P	96-07-084	468-86-230	NEW-W	96-05-032
434-219-290	RECOD	96-03-141	460-10A-210	NEW-P	96-07-084	468-86-240	NEW-W	96-05-032
434-219-310	RECOD	96-03-141	460-16A-010	PREP	96-03-129	468-86-260	NEW-W	96-05-032
434-219-320	RECOD	96-03-141	460-16A-010	AMD-P	96-07-057	468-105-010	NEW	96-03-107
434-219-330	RECOD	96-03-141	460-16A-015	PREP	96-03-128	468-105-020	NEW	96-03-107
434-219-340	RECOD	96-03-141	460-16A-015	AMD-P	96-07-065	468-105-030	NEW	96-03-107
434-219-350	RECOD	96-03-141	460-16A-111	PREP	96-03-127	468-105-040	NEW	96-03-107
440-22	PREP	96-08-079	460-16A-111	AMD-P	96-07-063	468-105-050	NEW	96-03-107
440-22-005	AMD-P	96-09-078	460-16A-120	PREP	96-03-126	468-105-060	NEW	96-03-107
440-22-406	NEW-P	96-09-078	460-16A-120	AMD-P	96-07-062	468-105-070	NEW	96-03-107
440-22-408	NEW-P	96-09-078	460-16A-125	PREP	96-03-125	468-105-080	NEW	96-03-107
458-20-12401	NEW-P	96-06-056	460-16A-125	AMD-P	96-07-055	468-200-020	NEW	96-02-067
458-20-12401	NEW-P	96-09-087	460-16A-150	PREP	96-03-125	468-200-040	NEW	96-02-067
458-20-13601	PREP	96-08-040	460-16A-150	AMD-P	96-07-055	468-200-060	NEW	96-02-067
458-20-14601	PREP	96-07-097	460-16A-205	PREP	96-03-130	468-200-080	NEW	96-02-067
458-20-199	AMD-P	96-06-057	460-16A-205	AMD-P	96-07-061	468-200-100	NEW	96-02-067
458-20-211	AMD	96-03-139	460-16A-390	PREP	96-03-129	468-200-110	NEW	96-02-067
458-20-226	AMD	96-05-080	460-16A-390	AMD-P	96-07-057	468-200-120	NEW	96-02-067
458-40-660	PREP	96-06-058	460-17A	PREP	96-03-120	468-200-160	NEW	96-02-067
458-53-010	AMD	96-05-002	460-17A	AMD-P	96-07-083	468-200-180	NEW	96-02-067
458-53-020	AMD	96-05-002	460-17A-010	AMD-P	96-07-083	468-200-200	NEW	96-02-067
458-53-030	AMD	96-05-002	460-17A-020	AMD-P	96-07-083	468-200-220	NEW	96-02-067
458-53-040	REP	96-05-002	460-17A-030	AMD-P	96-07-083	468-200-230	NEW	96-02-067
458-53-050	AMD	96-05-002	460-17A-040	AMD-P	96-07-083	468-200-240	NEW	96-02-067
458-53-051	REP	96-05-002	460-17A-050	AMD-P	96-07-083	468-200-250	NEW	96-02-067
458-53-070	AMD	96-05-002	460-17A-060	AMD-P	96-07-083	468-200-260	NEW	96-02-067
458-53-080	AMD	96-05-002	460-17A-070	AMD-P	96-07-083	468-200-280	NEW	96-02-067
458-53-090	AMD	96-05-002	460-20B-020	PREP	96-03-117	468-200-300	NEW	96-02-067
458-53-095	NEW	96-05-002	460-20B-020	AMD-P	96-07-059	468-200-320	NEW	96-02-067
458-53-100	AMD	96-05-002	460-20B-070	PREP	96-03-117	468-200-340	NEW	96-02-067
458-53-105	NEW	96-05-002	460-20B-070	NEW-P	96-07-059	468-200-350	NEW	96-02-067
458-53-110	REP	96-05-002	460-33A-020	PREP	96-03-124	468-200-360	NEW	96-02-067
458-53-120	REP	96-05-002	460-33A-020	AMD-P	96-07-056	468-300-010	AMD	96-05-046
458-53-130	AMD	96-05-002	460-40A-025	PREP	96-03-122	468-300-010	AMD	96-05-047
458-53-135	NEW	96-05-002	460-40A-025	REP-P	96-07-060	468-300-210	AMD-P	96-09-023
458-53-140	AMD	96-05-002	460-42A-010	PREP	96-03-119	468-300-700	AMD	96-05-048
458-53-141	REP	96-05-002	460-42A-010	REP-P	96-07-067	478-120	AMD-C	96-03-091
458-53-142	REP	96-05-002	460-42A-081	AMD-P	96-03-131	478-124	AMD-C	96-03-091
458-53-150	REP	96-05-002	460-44A-503	PREP	96-03-116	479-12-008	AMD	96-04-015
458-53-160	AMD	96-05-002	460-44A-505	PREP	96-03-116	479-20-013	AMD	96-04-015
458-53-163	REP	96-05-002	460-44A-506	PREP	96-03-116	479-112-0055	AMD	96-04-015
458-53-165	REP	96-05-002	460-46A-050	AMD-P	96-03-132	480-09-300	AMD	96-02-083
458-53-180	REP	96-05-002	460-60A-015	PREP	96-03-123	480-09-310	AMD	96-02-083
458-53-200	AMD	96-05-002	460-60A-015	AMD-P	96-07-058	480-09-330	AMD	96-02-083
458-53-210	AMD	96-05-002	460-60A-020	PREP	96-03-123	480-09-340	AMD	96-02-083
460-10A	PREP	96-03-121	460-60A-020	AMD-P	96-07-058	480-09-390	NEW	96-02-083
460-10A-035	REP-P	96-07-084	460-80-160	PREP	96-03-118	480-09-426	NEW	96-02-083
460-10A-050	AMD-P	96-07-084	460-80-160	REP-P	96-07-066	480-09-460	AMD	96-02-083
460-10A-055	REP-P	96-07-084	468-06	PREP	96-09-013	480-09-465	AMD	96-02-083
460-10A-060	AMD-P	96-07-084	468-66	PREP	96-06-022	480-09-466	NEW	96-02-083
460-10A-065	REP-P	96-07-084	468-66-080	AMD	96-03-031	480-09-467	NEW	96-02-083
460-10A-075	REP-P	96-07-084	468-86-010	NEW-W	96-05-032	480-09-470	AMD	96-02-083
460-10A-080	REP-P	96-07-084	468-86-020	NEW-W	96-05-032	480-09-480	AMD	96-02-083
460-10A-090	REP-P	96-07-084	468-86-030	NEW-W	96-05-032	480-09-750	AMD	96-02-083

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
480-09-751	NEW	96-02-083			
480-93-010	AMD-P	96-03-148			
495D-120-085	NEW-P	96-03-060			
495D-120-085	NEW	96-07-049			
516-12	PREP	96-03-110			
516-12-400	AMD-P	96-09-009			
516-12-440	AMD-P	96-09-009			
516-12-460	AMD-P	96-09-009			
516-12-470	AMD-P	96-09-009			
516-13	PREP	96-08-033			
516-15	PREP	96-08-034			
516-22-005	REP	96-03-103			
516-22-010	REP	96-03-103			
516-22-015	REP	96-03-103			
516-22-020	REP	96-03-103			
516-22-025	REP	96-03-103			
516-22-030	REP	96-03-103			
516-22-035	REP	96-03-103			
516-22-040	REP	96-03-103			
516-22-100	REP	96-03-103			
516-22-120	REP	96-03-103			
516-22-124	REP	96-03-103			
516-22-130	REP	96-03-103			
516-22-134	REP	96-03-103			
516-22-138	REP	96-03-103			
516-22-142	REP	96-03-103			
516-22-146	REP	96-03-103			
516-22-150	REP	96-03-103			
516-22-210	REP	96-03-103			
516-23-005	NEW	96-03-103			
516-23-010	NEW	96-03-103			
516-23-015	NEW	96-03-103			
516-23-020	NEW	96-03-103			
516-23-025	NEW	96-03-103			
516-23-030	NEW	96-03-103			
516-23-035	NEW	96-03-103			
516-23-040	NEW	96-03-103			
516-23-045	PREP	96-03-109			
516-23-045	NEW-P	96-08-038			
516-23-050	NEW	96-03-103			
516-23-055	NEW	96-03-103			
516-23-060	NEW	96-03-103			
516-23-065	NEW	96-03-103			
516-23-070	NEW	96-03-103			
516-23-075	NEW	96-03-103			
516-23-080	NEW	96-03-103			
516-23-085	NEW	96-03-103			
516-23-090	NEW	96-03-103			
516-23-095	NEW	96-03-103			
516-23-100	NEW	96-03-103			
516-23-105	NEW	96-03-103			
516-23-110	NEW	96-03-103			
516-23-115	NEW	96-03-103			
516-23-120	NEW	96-03-103			
516-23-125	NEW	96-03-103			
516-23-130	NEW	96-03-103			
516-23-135	NEW	96-03-103			
516-23-140	NEW	96-03-103			
516-23-145	NEW	96-03-103			
516-37	AMD	96-05-029			
516-37-001	AMD	96-05-029			
516-37-005	AMD	96-05-029			
516-37-010	AMD	96-05-029			
516-37-020	AMD	96-05-029			
516-37-030	AMD	96-05-029			
516-37-100	REP	96-05-029			
516-39-010	NEW	96-05-030			

TABLE



Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF		Pesticides		
Continuing professional education	PREP 96-05-084	agricultural farmworkers,		
CPA examination	PREP 96-05-082	protection standards	PREP 96-06-053	
	PROP 96-09-064	Potato commission		
Fees	PREP 96-05-081	meetings	MISC 96-01-053	
	PROP 96-09-065	Public records, availability	PREP 96-03-149	
Licenses			PROP 96-06-082	
CPA firms	PREP 96-05-083	Puget Sound gillnet salmon commission		
	PROP 96-09-066	meetings	MISC 96-01-113	
interstate reciprocal licensing	PREP 96-05-085	Red raspberry commission		
Third-party compensation	PREP 96-03-114	meetings	MISC 96-01-112	
			MISC 96-09-024	
AGRICULTURE, DEPARTMENT OF		Seeds		
Administrative procedure	PREP 96-06-081	alfalfa standards	PREP 96-07-086	
Alfalfa seed commission		assessment program	PREP 96-02-038	
assessments	PERM 96-03-151		PROP 96-09-091	
Apple commission		bean seed certification and		
meetings	MISC 96-02-061	phytosanitary rules	PREP 96-04-057	
Asparagus			PROP 96-07-087	
standards	PREP 96-09-090	certification standards	PREP 96-07-085	
Asparagus commission		corn seed standards	PREP 96-07-086	
meetings	MISC 96-01-052	fees	PREP 96-07-085	
Barley commission		Technical assistance		
meetings	MISC 96-01-051	development of lists of organizations		
Beans		or individuals to provide		
seed certification and phytosanitary	PREP 96-04-057	assistance	PREP 96-06-080	
rules	PROP 96-07-087	Tree fruit research commission		
		assessments	PERM 96-07-054	
Beef commission		Weights and measures		
meetings	MISC 96-03-090	device registration	PERM 96-01-040	
	MISC 96-08-003	service agent registration	PERM 96-01-040	
Cherries		Wine commission		
assessments	PERM 96-07-054	meetings	MISC 96-01-039	
Commercial feed		ARTS COMMISSION		
medicated feeds	PREP 96-06-050	Meetings	MISC 96-04-016	
Dry pea and lentil commission		Rules coordinator	MISC 96-04-029	
meetings	MISC 96-03-011			
Egg commission		ATTORNEY GENERAL'S OFFICE		
meetings	MISC 96-04-011	Lemon law administration	PERM 96-03-155	
Farmed salmon commission		Notice of request for attorney		
meetings	MISC 96-03-030	general's opinion	MISC 96-04-032	
Food storage warehouses			MISC 96-04-044	
licenses	PERM 96-01-041		MISC 96-04-075	
renewal and expiration dates			MISC 96-07-070	
sanitation consultants,	PROP 96-05-027		MISC 96-08-054	
qualifications for independent	PERM 96-09-037	Opinions		
consultants		fish guards, authority of fish		
	PROP 96-03-065	and wildlife department to		
Forest reproductive material		install (1996, No. 3)	MISC 96-05-040	
certification fees	PREP 96-02-036	liquor control board authority		
Fruits and vegetables	PROP 96-05-071	to appoint vendors (1996, No. 4)	MISC 96-07-026	
fees for department services		platting and subdivisions, effect		
		of 1969 Platting Act (1996, No. 5)	MISC 96-07-027	
Fryer commission		property tax, effect of homestead		
meetings	MISC 96-03-017	and allodial ownership declarations		
Ginseng		(1996, No. 6)	MISC 96-07-028	
certification for export	PREP 96-02-037	superior court judges, employer		
record keeping	PREP 96-02-037	contributions to benefits		
Hop commission		(1996, No. 2)	MISC 96-05-039	
assessments	PREP 96-02-082	truancy cases, confidentiality		
	PROP 96-05-086	of juvenile court records		
	MISC 96-01-038	(1996, No. 1)	MISC 96-05-003	
meetings				
Horticulture		BELLEVUE COMMUNITY COLLEGE		
plant pests	PREP 96-03-064	Discrimination complaint procedure	PERM 96-01-057	
Mint commission		Meetings	MISC 96-02-020	
grower assessments	PERM 96-03-150	Tuition and fees		
Noxious weed control board		refunds	PERM 96-01-056	
noxious weed list	PROP 96-03-093			
	PERM 96-06-030	BELLINGHAM TECHNICAL COLLEGE		
	PERM 96-04-058	Meetings	MISC 96-03-020	
noxious weed seeds	PROP 96-03-093		MISC 96-04-061	
schedule of penalties			MISC 96-07-016	
Organic food	PREP 96-08-074		MISC 96-08-070	
producer certification				

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

BENTON COUNTY CLEAN AIR AUTHORITY

Meetings MISC 96-04-041
Regulation 1 PROP 96-03-032

BLIND, DEPARTMENT OF SERVICES FOR THE

Facility operation agreement PREP 96-04-023
PROP 96-08-026

BOILER RULES, BOARD OF

(See LABOR AND INDUSTRIES,
DEPARTMENT OF)

BUILDING CODE COUNCIL

Fireplace design standards PERM 96-01-120
Meetings MISC 96-01-121

CASCADIA COMMUNITY COLLEGE

Board of trustees PROP 96-09-074
Grievance procedures PROP 96-09-074
Organization PROP 96-09-074
Practice and procedure PROP 96-09-074
Public records, availability PROP 96-09-074
State Environmental Policy Act
(SEPA) compliance PROP 96-09-074

CENTRAL WASHINGTON UNIVERSITY

Affirmative action policy PERM 96-02-013

CENTRALIA COLLEGE

Meetings MISC 96-01-097

CLARK COLLEGE

Meetings MISC 96-01-076
Public records, availability PREP 96-03-101
PROP 96-07-029

CLOVER PARK TECHNICAL COLLEGE

Hazing policy PREP 96-08-065
Meetings MISC 96-01-060
Student conduct code PREP 96-08-065

CODE REVISER'S OFFICE

Quarterly reports
95-19 through 95-24 - See Issue 96-02
96-01 through 96-06 - See Issue 96-08

COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR

Tuition and fees
waivers PROP 96-01-022
PERM 96-03-049

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Community economic revitalization board
meetings MISC 96-05-028
MISC 96-08-010

Growth management planning and environmental
review fund
management procedure PROP 96-01-105
EMER 96-03-045
PERM 96-04-046

Hardwoods commission
meetings MISC 96-03-042

Land use study commission
meetings MISC 96-01-116

Public works board
meetings MISC 96-09-020

CONVENTION AND TRADE CENTER

Meetings MISC 96-01-025
MISC 96-03-010
MISC 96-03-094
MISC 96-05-051
MISC 96-07-031
MISC 96-09-045

CORRECTIONS, DEPARTMENT OF

Public records, availability PREP 96-07-099

COUNTY ROAD ADMINISTRATION BOARD

Meetings MISC 96-06-003
Rules coordinator MISC 96-01-001

CRIMINAL JUSTICE TRAINING COMMISSION

Appeals PROP 96-03-025
PERM 96-08-008
Meetings MISC 96-01-027

DEFERRED COMPENSATION, COMMITTEE FOR

Deferred compensation program PREP 96-06-079

EASTERN WASHINGTON UNIVERSITY

Meetings MISC 96-03-102
MISC 96-05-053
MISC 96-09-011

ECOLOGY, DEPARTMENT OF

Agricultural burning EMER 96-08-041

Air quality
air pollution sources, regulations PROP 96-06-036

Clark county carbon monoxide
maintenance plan MISC 96-02-039

grass field burning, limitation EMER 96-08-041

Fish hatcheries
marine finfish rearing facilities PERM 96-02-058

Flood control
emergency funds, administration EMER 96-09-007

Growth Management Act integration with
State Environmental Policy Act
(SEPA) PREP 96-06-018

Model Toxics Control Act
agreed orders for cleanup actions PERM 96-04-010

Oil
used oil management standards PROP 96-05-020

Recycling
used oil management standards PROP 96-05-020

Resource damage assessment committee
meetings MISC 96-01-043

State Environmental Policy Act (SEPA)
integration with Growth Management Act PREP 96-06-018

State implementation plan (SIP)
Spokane MISC 96-04-042
MISC 96-06-035

Wastewater discharge permit program
fees PERM 96-03-041

Water quality
surface waters not meeting quality
standards MISC 96-01-044

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Meetings MISC 96-03-006

EDMONDS COMMUNITY COLLEGE

Meetings MISC 96-01-096
MISC 96-03-043
MISC 96-03-063
MISC 96-03-069
MISC 96-03-113
MISC 96-04-006
MISC 96-04-062
MISC 96-05-017
MISC 96-07-002
MISC 96-07-048
MISC 96-08-009
MISC 96-09-060

EDUCATION, STATE BOARD OF

Braille instruction, teacher
competencies PREP 96-04-070
PROP 96-07-046

INDEX

Subject/Agency Index
(Citation in bold type refer to material in this issue)

Early childhood education subject area endorsement	PROP	96-01-081
English subject area endorsement	PERM	96-01-082
High school credit	PREP	96-02-045
	PROP	96-04-071
	PROP	96-09-010
	PERM	96-09-027
Private schools classification	PREP	96-09-026
Public records, availability	PERM	96-01-066
School bus transportation	PREP	96-08-060
Student records, compliance with request to transfer	PROP	96-04-072
	PERM	96-08-012
Students appeals of long-term suspensions and expulsions	PREP	96-06-023
	PROP	96-08-061
	PROP	96-09-025
Teachers braille instruction, teacher competencies	PREP	96-04-070
	PROP	96-07-046
certification endorsement requirements	PROP	96-04-047
	PERM	96-08-023
instructional technology	PROP	96-04-049
	PERM	96-08-025
internship credit	PROP	96-01-079
	PERM	96-04-073
	PROP	96-04-074
	PERM	96-08-013
limited certificates	-PROP	96-01-080
	PERM	96-08-022
misconduct, investigation and discipline orders	PREP	96-06-038
specialty areas of study	PROP	96-04-048
	PERM	96-08-024
teacher preparation programs, admission standards	PREP	96-07-102
EMERGENCY MEDICAL SERVICES AND TRAUMA COUNCIL, EAST REGION		
Meetings	MISC	96-08-047
EMPLOYMENT SECURITY DEPARTMENT		
Community and technical college instructors, unemployment insurance benefits	PROP	96-04-065
Employer mailing address	PREP	96-03-158
Overpayments, recovery	PREP	96-03-159
Shared work program	PROP	96-08-062
Summer youth program	EMER	96-09-004
ENVIRONMENTAL HEARINGS OFFICE		
Forest practices appeals board, See FOREST PRACTICES APPEALS BOARD		
EVERGREEN STATE COLLEGE (See THE EVERGREEN STATE COLLEGE)		
EXECUTIVE ETHICS BOARD		
Ethical standards implementation as relating to executive branch	PREP	96-06-019
	PREP	96-06-020
	PREP	96-06-021
Meetings	MISC	96-01-037
Organization and operation	EMER	96-03-072
Rules coordinator	MISC	96-01-075
Use of state resources for private benefit	PERM	96-01-036
FAMILY POLICY COUNCIL		
Meetings	MISC	96-01-091

FINANCIAL INSTITUTIONS, DEPARTMENT OF		
Adjudicative proceedings	PREP	96-06-085
Agency, institutions acting as agent for another	PROP	96-07-040
Banks semiannual asset charge	PROP	96-01-019
	EMER	96-01-054
	PERM	96-04-022
Check cashers and sellers licenses fees small loan endorsement	PREP	96-09-095
	EMER	96-02-033
	PERM	96-03-059
Consumer loan companies licensing, fees, and business practices	PERM	96-04-013
Credit unions capital and liquidity adequacy, analysis common bond of association, definition fees	PROP	96-07-039
	PREP	96-09-005
	PREP	96-03-037
	PROP	96-08-076
recodification of sections in Title 419 WAC	MISC	96-06-011
Escrow agents interest-bearing trust accounts, use licenses suspension and reinstatement recodification of chapter 308-128 WAC	PREP	96-06-084
	PREP	96-09-094
	MISC	96-05-018
	PREP	96-06-084
Mortgage brokers and loan originators computerized loan origination by real estate brokers recodification of chapter 50-60 WAC	PREP	96-06-083
	MISC	96-04-028
	MISC	96-06-001
Mortgage broker commission meetings		
Securities adjudicative proceedings	PREP	96-03-129
	PROP	96-07-057
asset backed securities	PREP	96-03-130
	PROP	96-07-061
audited financial statements	PREP	96-03-123
	PREP	96-03-124
	PROP	96-07-056
	PROP	96-07-058
broker-dealers and salespersons registration	PREP	96-03-116
	PREP	96-03-117
	PROP	96-07-059
cheap stock	PREP	96-03-125
	PROP	96-07-055
definitions	PREP	96-03-121
	PROP	96-07-084
employee plans	PREP	96-03-119
	PROP	96-07-067
exchange and national market system exemption	PROP	96-03-131
filings electronic transmission	PREP	96-03-128
	PROP	96-07-065
franchise cross-reference sheets	PREP	96-03-118
	PROP	96-07-066
offerings price variances	PREP	96-03-126
	PROP	96-07-062
officers' and directors' equity investment	PREP	96-03-127
	PROP	96-07-063
promotional shares	PROP	96-03-132
selling expenses	PREP	96-03-122
	PROP	96-07-060
small corporate offering registration	PREP	96-03-120
	PROP	96-07-083
FINANCIAL MANAGEMENT, OFFICE OF		
Paydates for 1997	PREP	96-09-031

Subject/Agency Index
(Citation in bold type refer to material in this issue)

Rules adoption, amendment or repeal, format for petition	PERM 96-03-048	Stillaguamish River	EMER 96-03-053
FISH AND WILDLIFE, DEPARTMENT OF		Sultan River	EMER 96-03-053
		Tokol Creek	EMER 96-03-053
		Tolt River	EMER 96-03-053
		White River	EMER 96-03-053
		licenses	PERM 96-05-004
		salmon	
		areas and seasons	EMER 96-01-086
			PERM 96-05-004
			EMER 96-06-052
			EMER 96-08-045
	EMER 96-09-063		
Fish and wildlife commission meetings	MISC 96-03-137		
<u>Fishing, commercial</u>			
coastal bottomfish			
catch limits	EMER 96-02-017		
gear	PROP 96-03-154		
crab fishery	EMER 96-01-002	seaweed	
	EMER 96-01-064	licenses	PERM 96-05-004
	EMER 96-02-028	shad	
	EMER 96-02-065	areas and seasons	EMER 96-06-052
	EMER 96-03-055	shellfish	
	EMER 96-06-006	areas and seasons	
		licenses	PERM 96-05-004
salmon		native clams	EMER 96-02-027
Columbia River above Bonneville	EMER 96-04-039		EMER 96-08-046
Columbia River below Bonneville	EMER 96-05-055		EMER 96-08-046
Columbia River tributaries	EMER 96-01-013		PERM 96-05-004
Grays Harbor fishery	PROP 96-09-104	oysters	EMER 96-07-051
license buy-back program	PROP 96-04-069	razor clams	
	PROP 96-08-015		
	PROP 96-08-015	shrimp	
	PREP 96-04-068	areas and seasons	PERM 96-05-004
	PROP 96-09-105		EMER 96-09-049
	PROP 96-09-104		PREP 96-08-078
Puget Sound net fishery		sport fishing rules	
		steelhead	
		areas and seasons	EMER 96-06-007
		sturgeon	
	EMER 96-01-048	areas and seasons	EMER 96-08-063
	EMER 96-01-065		
	EMER 96-02-018	Game reserves	
	EMER 96-03-014	Columbia and Snake River game	
	EMER 96-04-038	reserve	PROP 96-06-066
	EMER 96-05-019	Stubblefield Lake game reserve	PROP 96-06-067
	EMER 96-05-033	Hunting rules	PERM 96-04-027
	EMER 96-06-005	<u>Hunting seasons</u>	
		bear	PERM 96-08-035
shrimp		big game auction permits	PERM 96-02-029
commercial purchasers and			PROP 96-06-075
receivers, duties	EMER 96-09-048		PROP 96-06-076
harvest logs	EMER 96-09-048	Canada goose	EMER 96-01-004
seasons and gear	EMER 96-09-048		EMER 96-01-014
smelt			EMER 96-01-031
areas and seasons	EMER 96-04-026		EMER 96-02-046
sturgeon		cougar	PREP 96-02-029
areas and seasons	EMER 96-02-026		PROP 96-06-074
	EMER 96-08-064	deer	PREP 96-02-029
		disabled persons hunting	PROP 96-06-069
<u>Fishing, personal use</u>			EMER 96-03-083
bottomfish			PERM 96-03-084
areas and limits	PERM 96-05-004	elk	PROP 96-06-065
food fish	PROP 96-05-044		PREP 96-02-029
classification	PROP 96-05-044		PROP 96-06-070
licenses	PERM 96-05-004	goat	PROP 96-06-075
seasons and gear	PROP 96-05-005		PREP 96-02-029
	PROP 96-05-044	hunting hours and small game seasons	PROP 96-06-073
fresh water angling		migratory waterfowl	PROP 96-06-068
seasons and gear	PROP 96-05-005		PERM 96-02-009
game fish seasons and catch limits, 1995-97			PROP 96-06-077
Carbon River	EMER 96-03-053	moose	PREP 96-02-029
classification	PROP 96-05-044		PROP 96-06-071
closing date	EMER 96-03-054	sheep	PREP 96-02-029
Cowlitz River	EMER 96-06-007		PROP 96-06-072
Green River	EMER 96-03-053	special hunts	PROP 96-06-076
Hoh River	EMER 96-04-043		PREP 96-02-030
Lewis River	EMER 96-06-007		PROP 96-06-062
Nisqually River	EMER 96-03-053	Wildlife	PROP 96-09-003
Pilchuck River	EMER 96-03-053	big horn sheep horn marking	PREP 96-08-077
Puyallup River	EMER 96-03-053	problem animal removal	PREP 96-02-030
Raging River	EMER 96-03-053		PROP 96-06-062
Skagit River	EMER 96-03-053		PROP 96-09-003
Skykomish River	EMER 96-03-053		
Snohomish River	EMER 96-03-053		
Snoqualmie River	EMER 96-03-053		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Wildlife rehabilitation facilities	PREP 96-02-066 PROP 96-06-064	GOVERNOR, OFFICE OF THE Americans with Disabilities Act, implementation	MISC 96-08-011
FOREST PRACTICES APPEALS BOARD Hearings, practice and procedure	PROP 96-09-057	Clemency and pardons board meetings	MISC 96-03-028 MISC 96-05-014
FOREST PRACTICES BOARD Marbled murrelet critical wildlife habitat	EMER 96-03-009 PROP 96-03-067 PROP 96-04-076 PROP 96-05-090 PROP 96-09-099	Flood and high winds, state of emergency declared	MISC 96-01-115
Meetings	MISC 96-02-068 MISC 96-08-075	Flooding, state of emergency declared	MISC 96-05-007 MISC 96-05-008 MISC 96-05-012 MISC 96-05-013 MISC 96-05-023 MISC 96-05-045 MISC 96-06-004 MISC 96-06-013 MISC 96-06-043
Northern spotted owl critical wildlife habitat	EMER 96-03-009 PROP 96-03-067 PROP 96-04-076 PROP 96-05-090 PROP 96-09-099	Health care outreach task force for ethnic, minority and other underserved populations establishment	MISC 96-01-073
GAMBLING COMMISSION Adjudicative proceedings	PROP 96-03-078 PERM 96-09-072	Revenue department compliance division, limited role as criminal justice agency established	MISC 96-02-064
Amusement games operation	PROP 96-03-080 PERM 96-07-076	Social and health services, department of administrative investigations child care licensing children's services, accountability	MISC 96-03-027 MISC 96-03-057 MISC 96-03-056
Bingo gift certificates	PROP 96-03-079 PERM 96-07-078 PERM 96-05-011	GRAYS HARBOR COLLEGE Meetings	MISC 96-05-037
net income requirements player selection games record-keeping requirements transportation to games	PROP 96-07-072 PROP 96-03-068 PROP 96-03-079 PERM 96-07-078	GREEN RIVER COMMUNITY COLLEGE Meetings	MISC 96-03-008
Card rooms jackpot poker operation	PREP 96-07-071 PROP 96-03-081 PROP 96-07-074	HARDWOODS COMMISSION (See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)	
table time charge Fee schedule	PREP 96-07-071 PROP 96-05-043 PERM 96-09-070	HEALTH CARE AUTHORITY Basic health plan eligibility	PROP 96-01-107 EMER 96-03-104 PROP 96-09-102 PROP 96-01-107 EMER 96-03-104 PROP 96-09-102
House rules Meetings	PREP 96-03-087 MISC 96-02-076	enrollment	PROP 96-02-080 PERM 96-08-043 PROP 96-02-079 PERM 96-08-042
Nonprofit/charitable organizations gambling receipts deposit	PROP 96-04-085 PROP 96-05-041 PERM 96-09-073	Public employees benefits board eligibility	PROP 96-02-080 PERM 96-08-043 PROP 96-02-079 PERM 96-08-042
qualification review	PROP 96-03-077 PERM 96-07-075	practice and procedure	
record-keeping requirements Raffles	PROP 96-03-068 PROP 96-03-076 PERM 96-07-077	HEALTH CARE POLICY BOARD Certified health plans	
Recreational gambling permits	PREP 96-03-085 PROP 96-05-042 PERM 96-09-071	collective negotiation by providers	PREP 96-04-059 PROP 96-08-090 MISC 96-04-014 MISC 96-06-015 MISC 96-06-016
Social card games	PREP 96-03-086 PROP 96-07-073 PROP 96-01-087	Meetings	
Taxation, compliance requirements Tribal casinos hours of operation wagering limits	PROP 96-01-087 PROP 96-01-087	HEALTH, DEPARTMENT OF Adjudicative proceedings	PREP 96-06-048
GENERAL ADMINISTRATION, DEPARTMENT OF Parking and traffic rules state capitol grounds	EMER 96-01-011 PREP 96-06-044 EMER 96-09-006	Adult family homes providers and resident managers, registration	PREP 96-08-050 PROP 96-04-078
GEOGRAPHIC NAMES, BOARD ON Determinations of geographic names	MISC 96-02-059	Blood lead levels reporting Boarding homes fees Cancer reporting and data collection Certificate of need program Chiropractic quality assurance commission meetings Coordinated quality improvement program	PROP 96-09-084 PROP 96-04-081 PREP 96-05-059 MISC 96-04-031 PROP 96-04-082 PERM 96-09-042

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Counselors			examination	PROP	96-02-086
fees	PROP	96-01-033		PERM	96-08-007
Dental quality assurance commission			fees	PROP	96-02-085
dentists				PERM	96-08-006
examination	PERM	96-01-083	licenses		
Emergency medical services			fees	PROP	96-02-086
intermediate and advanced life support				PERM	96-08-007
personnel training and certification	PERM	96-03-052	retired active psychologists	PROP	96-02-086
intermediate life technicians				PERM	96-08-007
personnel training and certification	PREP	96-06-049	meetings	MISC	96-03-133
Facilities			Radiation protection,		
certificate of need program	PREP	96-05-059	division of fees	PROP	96-07-103
Farmers' market nutrition program	PERM	96-01-085	Radiologic technology ad hoc committee		
Gunshot wound reporting	PROP	96-04-077	meetings	MISC	96-02-063
	PERM	96-08-028	Shellfish programs		
Health care insurance			export certifications, fee	PREP	96-09-029
whistleblower protection	PREP	96-05-058	Social workers		
Home care			fees	PROP	96-01-033
fees	PROP	96-09-083	Temporary worker housing		
Home health care			regulations	PERM	96-01-084
fees	PROP	96-09-082		PERM	96-02-014
Hospice care			Vaccination schedule for school-age		
fees	PROP	96-09-081	children	PERM	96-04-079
Hospitals			Whistleblowers		
maintenance and operation standards	PREP	96-07-011	health care insurance complaints	PREP	96-05-058
Hypnotherapists					
fees	PROP	96-01-033	HEALTH, STATE BOARD OF		
	PERM	96-08-069	(See HEALTH, DEPARTMENT OF)		
Lead, reporting of blood lead levels	PROP	96-04-078			
Malpractice insurance for health care			HIGHER EDUCATION COORDINATING BOARD		
practitioners	PROP	96-09-018	Future teacher conditional scholarship		
Massage, board of			recipient teaching obligation	PREP	96-07-095
education programs	PREP	96-06-027	State need grant program	PROP	96-01-074
examinations	PREP	96-06-027		PERM	96-04-019
practice standards	PREP	96-06-027		PREP	96-07-096
student supervision	PREP	96-06-027			
Medical quality assurance commission			HIGHER EDUCATION, JOINT CENTER FOR		
disciplinary action	PERM	96-03-073	Meetings	MISC	96-04-017
licenses	PERM	96-03-073	Rules coordinator	MISC	96-09-021
Medical test sites					
fees	PROP	96-09-043	HIGHLINE COMMUNITY COLLEGE		
Nursing assistants			Meetings	MISC	96-01-059
delegation of duties	PERM	96-06-029			
fees	PERM	96-03-051	HISPANIC AFFAIRS, COMMISSION ON		
Nursing care quality assurance commission			Meetings	MISC	96-01-020
licensed practical nurses					
licenses			HORSE RACING COMMISSION		
reinstatement	MISC	96-06-028	Association grounds and facilities	PREP	96-03-143
supervision	MISC	96-06-028	Association officials and employees	PREP	96-06-086
registered nurses				PROP	96-09-097
delegation of duties	PERM	96-05-060	Claiming	PREP	96-03-145
Nursing home administrators, board of				PROP	96-09-098
meetings	MISC	96-02-034	Controlled medication program	PROP	96-04-067
Pharmacy, board of			Drug and alcohol testing	PREP	96-03-144
continuing education	PERM	96-02-007	National model rules, uniformity	PREP	96-03-142
	PROP	96-04-080	Parimutuel rules	PROP	96-04-066
drug price disclosure	PERM	96-02-008			
educational requirements	PERM	96-02-006	HOUSING FINANCE COMMISSION		
legend drugs			Housing finance plan, hearings	MISC	96-01-110
identification	PREP	96-03-012		MISC	96-01-111
over-the-counter drugs					
imprints	PROP	96-03-134	HUMAN RIGHTS COMMISSION		
	PERM	96-07-012	Employment		
professional responsibilities	PERM	96-02-005	handicapped persons	PROP	96-08-055
	PERM	96-03-016	preemployment inquiry guide	PROP	96-08-055
steroids			sex discrimination	PROP	96-08-055
addition to schedule III	PERM	96-01-032	Fair housing program	PREP	96-02-081
Physical therapy, board of				PROP	96-06-087
examinations	EMER	96-03-050	Meetings	MISC	96-01-106
	PREP	96-03-160		MISC	96-08-051
	PROP	96-08-068			
Psychology, examining board of			INDETERMINATE SENTENCE REVIEW BOARD		
continuing education	PROP	96-02-086	Rules coordinator	MISC	96-09-085
	PERM	96-08-007			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

INSURANCE COMMISSIONER, OFFICE OF

Filing of rates and contracts, form	PREP	96-03-091A
	PROP	96-07-081
Financial statements		
electronic filing by insurers	PROP	96-05-091
	PROP	96-08-017
	PROP	96-09-046
Health care services		
conscientious objection to		
participating in specific services	PROP	96-03-033
	PROP	96-03-075
	PERM	96-04-060
Long-term care insurance		
benefits	PROP	96-04-018
Medicare supplemental insurance	PROP	96-04-086
	PROP	96-08-016
	PERM	96-09-047
Organization and operation	PROP	96-04-087
	PROP	96-09-002
	PERM	96-09-038

INTEREST RATES

(See inside front cover)

INVESTMENT BOARD

Meetings	MISC	96-05-050
Rules coordinator	MISC	96-08-052

JUDICIAL CONDUCT, COMMISSION ON

Ethical standards	PREP	96-06-047
Meetings	MISC	96-01-034
	MISC	96-06-024
	MISC	96-09-096
Procedural rules	PROP	96-04-083
	PROP	96-05-006
Rules coordinator	MISC	96-01-035

LABOR AND INDUSTRIES, DEPARTMENT OF

Administrative rules review	MISC	96-03-152
Apprenticeship and training council		
apprenticeship agreements	EMER	96-03-092
Asbestos certification program	PERM	96-05-056
Boiler rules, board of		
nonstandard boilers and pressure		
vessels, requirements	PREP	96-09-086
reinstalled boilers and pressure		
vessels, requirements	PREP	96-09-086
Electrical board		
meetings	MISC	96-01-050
Factory built housing	PREP	96-06-032
Occupational health standards		
asbestos exposure		
general	EMER	96-08-072
	PROP	96-03-024
	PERM	96-09-030
lead exposure	PROP	96-03-024
	PERM	96-09-030
respiratory protection	PROP	96-03-024
	PERM	96-09-030
saccharin fit testing	PROP	96-03-024
	PERM	96-09-030
Recordkeeping and reporting		
confidential witness statements	MISC	96-06-033
Safety and health standards		
beryllium and nitrous oxide PELs	PREP	96-05-077
crane and derrick suspended		
platforms	PROP	96-03-024
	PERM	96-09-030
personal protective equipment	PROP	96-03-024
	PERM	96-09-030
pesticides, worker protection	PREP	96-06-078
Safety standards		
agriculture	PREP	96-06-034
	PREP	96-06-078
asbestos removal	PERM	96-05-056
	PREP	96-05-076

construction work	PREP	96-05-078
fall protection	PREP	96-05-079
fire fighters	PROP	96-03-026
logging operations	PREP	96-05-075
	PROP	96-09-101
OSHA compliance	PROP	96-03-024
	PERM	96-09-030
	PREP	96-01-119
Technical assistance consultant lists		
Workers' compensation		
classifications	PROP	96-05-064
	PROP	96-05-065
job modification during		
vocational retraining	PREP	96-03-106
medical services payment system	PREP	96-02-052
	PROP	96-05-066
premium discount, employer		
certification	PREP	96-09-100
premium rates	PREP	96-01-118
	EMER	96-02-053
	PROP	96-03-115
	PERM	96-06-025
	PROP	96-05-064
	PROP	96-05-065
	PREP	96-03-153
	PROP	96-07-098
rates and rating system		
retrospective rating		

LAKE WASHINGTON TECHNICAL COLLEGE

Hazing policy	PROP	96-03-060
	PERM	96-07-049

LAND USE STUDY COMMISSION

(See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)

LICENSING, DEPARTMENT OF

Architects, board of registration for		
meetings	MISC	96-02-062
	MISC	96-03-089
Engineers and land surveyors,		
board of licenses		
requirements	PROP	96-07-052
retired status license	PROP	96-07-037
Landscape architects		
board of registration	PROP	96-04-009
	PROP	96-04-040
	PROP	96-04-009
	PROP	96-04-040
	PREP	96-04-007
	PROP	96-04-009
	PROP	96-04-040
	PROP	96-08-005
	PROP	96-04-009
	PROP	96-04-040
registration		
Motor vehicles		
destroyed vehicles, reporting	PREP	96-08-029
limousine and for hire businesses	PREP	96-07-047
owner identification criteria	PERM	96-04-004
owner information disclosure	PERM	96-03-047
salvage vehicles, reporting	PREP	96-08-029
snowmobile registration fee	PROP	96-09-039
taxi cabs	PREP	96-07-047
veteran remembrance emblems program	PREP	96-04-064
	PROP	96-09-040
Public records, availability	PROP	96-02-035
	PERM	96-05-036
Real estate commission		
meetings	MISC	96-02-011
Travel sellers		
registration	EMER	96-01-055
	PREP	96-08-056
	PROP	96-08-057
	EMER	96-09-056
Vessels		
application fees, disposition	PROP	96-09-041
owner identification criteria	PERM	96-04-004

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

owner information disclosure	PERM	96-03-046	Forest fire advisory board meetings	MISC	96-03-034
watercraft excise tax and registration exemption for Indian tribal members	PROP	96-07-030	Forest practices board (See FOREST PRACTICES BOARD)		
LIQUOR CONTROL BOARD			Natural heritage advisory council meetings	MISC	96-08-053
Alcohol server training program	PERM	96-03-074	Natural resources, board of meetings	MISC	96-08-048
Distributors					
beer and wine wholesale price postings	PREP	96-01-123			
	PROP	96-07-101			
Licensees			NORTHWEST AIR POLLUTION AUTHORITY		
restaurants, class H	PERM	96-03-005	Compliance standards and enforcement	PROP	96-01-089
transfers of licenses	PERM	96-03-004		PERM	96-05-024
Tobacco products				PROP	96-06-017
sample, definition	PREP	96-09-044			
Wine warehouses			OLYMPIC COLLEGE		
storage and removal of wine	PREP	96-01-124	Meetings	MISC	96-01-092
	PROP	96-07-100		MISC	96-03-112
				MISC	96-07-006
LOTTERY COMMISSION			OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR		
Instant game number 157 - Summer Gold	PROP	96-03-038	Funds management	PROP	96-04-054
	PROP	96-03-157		PERM	96-08-044
	PERM	96-07-015	Meetings	MISC	96-03-136
Instant game number 158 - Five Card Stud	PERM	96-03-039		MISC	96-05-025
Instant game number 159 - Fat Cat	PERM	96-03-039	Organization and operation	PROP	96-07-020
Instant game number 160 - My! Oh! My!	PERM	96-03-039		PROP	96-04-054
Instant game number 161 - \$2 Baseball scorecard	PERM	96-03-039		PERM	96-08-044
Instant game number 162 - \$2 Double Dollars	PROP	96-03-157			
	PERM	96-07-015	PARKS AND RECREATION COMMISSION		
Instant game number 163 - Apple Bucks	PROP	96-03-157	Fishing in state parks	PERM	96-01-030
	PERM	96-07-015	Land classification system	PERM	96-01-078
Instant game number 164 - Blackjack	PROP	96-03-157	Meetings	MISC	96-02-016
	PERM	96-07-015	SEPA procedures	PERM	96-01-029
Instant game number 165 - \$2 Bingo	PROP	96-03-157	Snowmobile registration fee	PREP	96-07-019
	PERM	96-07-015	Technical rock climbing, regulations		
Instant game number 166 - Instant Jackpot	PROP	96-03-157		PERM	96-02-015
	PERM	96-07-015			
Instant game number 167 - 100 Grands	PROP	96-03-157	PENINSULA COLLEGE		
	PERM	96-07-015	Meetings	MISC	96-05-062
Instant game number 168 - \$2 Instant Casino	PROP	96-07-104			
Instant game number 169 - Aces High	PROP	96-07-104	PERSONNEL RESOURCES BOARD		
Instant game number 170 - Lucky Charm	PROP	96-07-104	Classification plan	PROP	96-08-087
Instant game number 171 - \$5 Holiday Surprise	PROP	96-07-104		PROP	96-08-088
Instant game number 172 - Mistle Dough	PROP	96-07-104	Compensation	PERM	96-02-073
Instant game number 173 - Lucky Streak	PROP	96-07-104		PROP	96-08-087
Instant game rules	PREP	96-03-156	Compensatory time	PROP	96-08-088
	PREP	96-08-004	Disabled employees, accommodation	PROP	96-08-082
	PREP	96-09-103		PROP	96-02-071
Limited off-premises sales permits	PERM	96-03-039	Examinations	PERM	96-05-026
Rules coordinator	MISC	96-07-001	administration	PERM	96-02-072
			veteran's preference	PROP	96-08-085
MARINE SAFETY, OFFICE OF				PROP	96-08-086
Fishing vessel boarding checklist	MISC	96-05-063	Labor relations	PREP	96-02-001
Pilot coordination and testing program	PERM	96-03-070		PROP	96-04-052A
Vessel operation				PROP	96-04-053
small tank barges, financial responsibility	EMER	96-08-002		PROP	96-06-059
substantial risk standards	PROP	96-03-071		PROP	96-07-091
	MISC	96-03-082		PERM	96-07-093
	MISC	96-05-063		PROP	96-09-054
	PROP	96-09-008		PERM	96-09-055
			Leave rules	PROP	96-08-081
MINORITY AND WOMENS' BUSINESS ENTERPRISES, OFFICE OF				PROP	96-08-082
Annual goals for participation	PREP	96-07-089		PROP	96-09-088
State agency and educational institution responsibilities	PREP	96-07-088	Meetings	PROP	96-09-089
			Overtime	MISC	96-01-003
NATURAL RESOURCES, DEPARTMENT OF			Shared leave	PROP	96-08-082
Burning permit program				PROP	96-02-002
fees	PROP	96-08-027		PROP	96-02-069
Fire protection			Shift premium	PROP	96-08-083
Anderson Island	PERM	96-03-003		PROP	96-08-084
				PROP	96-02-070
				PROP	96-07-092
				PROP	96-09-053

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Temporary appointments from outside state service	PROP	96-02-002	Administrator internship program	PREP	96-07-050
Veteran's preference	PROP	96-08-085	Education, state board of (See also EDUCATION, STATE BOARD OF)		
	PROP	96-08-086	elections	PROP	96-04-033
Temporary appointments from within state service	PROP	96-02-002	Educational employees	PERM	96-08-001
Washington management service	PERM	96-02-073	fingerprint record checks	PREP	96-08-059
PERSONNEL, DEPARTMENT OF			Funding		
Personnel resources board			basic education apportionment	PERM	96-03-001
(See PERSONNEL RESOURCES BOARD)			K-3 staff enhancement	PROP	96-02-078
Salary adjustments	PROP	96-08-089	special education allocation	PERM	96-05-021
PIERCE COLLEGE			School districts	PERM	96-03-002
Meetings	MISC	96-01-016	School districts	PROP	96-05-031
	MISC	96-05-052	budget timelines	PERM	96-08-058
				PERM	96-09-001
PILOTAGE COMMISSIONERS, BOARD OF			Special education		
Pilotage tariff rates			certificated instructional		
Grays Harbor district	PREP	96-05-054	staff ratio	PROP	96-02-077
Puget Sound district	PREP	96-04-052		PERM	96-05-022
	PROP	96-08-067	funds allocation	PERM	96-03-002
POLLUTION LIABILITY INSURANCE AGENCY			Transportation		
Appeals	PROP	96-01-102	operation allocation	PREP	96-09-067
	PERM	96-04-005	replacement and depreciation allocation	PREP	96-09-068
Heating oil pollution liability insurance program	PERM	96-01-101	school bus standards	PREP	96-09-069
	EMER	96-02-051	University of Washington transition		
Underground storage tanks site visits	PROP	96-01-102	school and early entrance program	PREP	96-06-061
PUBLIC DISCLOSURE COMMISSION			PUBLIC WORKS BOARD		
Contributions			(See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		
definitions	PROP	96-05-072	PUGET SOUND AIR POLLUTION CONTROL AGENCY		
	PROP	96-05-073	Agricultural burning	PROP	96-02-019
	PERM	96-09-015		PERM	96-05-015
	PERM	96-09-016	Coatings and ink manufacturing	PROP	96-06-055
independent expenditures	PROP	96-05-072		PERM	96-09-059
	PROP	96-05-073	Fire department training	PROP	96-02-019
	PERM	96-09-015		PERM	96-05-015
	PERM	96-09-016	Meetings	MISC	96-03-035
legislative session freeze period limitations	PERM	96-01-103	Outdoor fires	PROP	96-02-019
	PROP	96-01-109		PERM	96-05-015
	PERM	96-04-021	PUGET SOUND WATER QUALITY AUTHORITY		
Definitions	PROP	96-01-117	Meetings	MISC	96-03-018
	PERM	96-05-001	Puget Sound ambient monitoring program	MISC	96-07-082
	PROP	96-05-072	Puget Sound water quality management plan	MISC	96-08-080
	PROP	96-05-073			
	PERM	96-09-015	QUARTERLY REPORTS		
	PERM	96-09-016	(See CODE REVISER'S OFFICE)		
Electronic filing program	PROP	96-01-108	RENTON TECHNICAL COLLEGE		
	PERM	96-04-020	Meetings	MISC	96-02-044
Lobbyists and lobbying expense reporting	PERM	96-01-103	RETIREMENT SYSTEMS, DEPARTMENT OF		
Meetings	MISC	96-04-030	Adjudicative proceedings presiding officer	PROP	96-07-080
	MISC	96-09-014	Deferred compensation program	PREP	96-06-079
Personal financial affairs statement	EMER	96-01-104	Firefighters		
	PROP	96-05-074	uniformed firefighter, definition	PERM	96-01-045
	PERM	96-09-017		PERM	96-04-003
Requests for lists of individuals	PROP	96-01-117	Law enforcement officers' and fire fighters' retirement system		
	PERM	96-05-001	basic salary, determination	PREP	96-07-033
PUBLIC EMPLOYEES BENEFITS BOARD			Public employees' retirement system		
Meetings	MISC	96-01-021	compensation earnable, determination	PREP	96-07-034
PUBLIC EMPLOYMENT RELATIONS COMMISSION			Social Security numbers, disclosure	PREP	96-07-032
Administrative procedures and housekeeping changes	PROP	96-03-135	Standby pay	PERM	96-01-046
	PERM	96-07-105	Survivor benefit options	PERM	96-01-047
	MISC	96-09-028		PERM	96-03-100
meetings			Teachers' retirement system		
PUBLIC INSTRUCTION, SUPERINTENDENT OF			compensation earnable, determination	PREP	96-07-035
Administrative hearings					
certification appeals	PREP	96-07-036			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

REVENUE, DEPARTMENT OF

Business and occupation tax accounting methods	PROP	96-06-057
Excise taxes		
financial institutions and businesses apportionment of income	PREP	96-07-097
Property tax		
agricultural land valuation	PERM	96-01-095
forest land values	PERM	96-02-055
inflation rates	PERM	96-01-094
ratios of real and personal property, determination	PERM	96-05-002
refunds, rate of interest	PERM	96-01-093
Sales tax		
equipment rentals	PERM	96-03-139
landscape and horticultural services	PROP	96-02-010
	PERM	96-05-080
manufacturing machinery and equipment	PREP	96-08-040
stadium tax on food and beverage sales	PREP	96-02-031
	EMER	96-02-032
	PROP	96-06-056
	PROP	96-09-087
Timber excise tax		
definitions	PERM	96-02-054
scaling and grading methods	PERM	96-02-055
stumpage values	PERM	96-02-054
	PERM	96-02-056
	PERM	96-02-057
	PREP	96-06-058
	PERM	96-02-054
timber quality codes		
Use tax		
manufacturing machinery and equipment	PREP	96-08-040
stadium tax on food and beverage sales	PREP	96-02-031
	EMER	96-02-032
	PROP	96-06-056

RULES COORDINATORS

(See Issue 96-01 for a complete list of rules coordinators designated as of 12/20/95)

Arts commission	MISC	96-04-029
County road administration board	MISC	96-01-001
Executive ethics board	MISC	96-01-075
Higher education, joint center for	MISC	96-09-021
Indeterminate sentence review board	MISC	96-09-085
Investment board	MISC	96-08-052
Judicial conduct, commission on	MISC	96-01-035
Lottery commission	MISC	96-07-001
Washington state historical society	MISC	96-03-146

SEATTLE COMMUNITY COLLEGES

Meetings	MISC	96-01-023
	MISC	96-05-016
	MISC	96-06-037
	MISC	96-07-013
	MISC	96-07-038
	MISC	96-09-012

SECRETARY OF STATE

Charitable solicitations		
financial reporting	PROP	96-01-088
	PROP	96-05-089
	PERM	96-08-049
registration	PROP	96-01-088
	PROP	96-05-089
	PERM	96-08-049
Charitable trusts		
annual renewal date	PROP	96-05-088
	PERM	96-08-049
jurisdiction	PROP	96-05-088
	PERM	96-08-049
Corporations division		
dissolved corporations list	MISC	96-01-122

Elections		
presidential primary	EMER	96-03-140
	PERM	96-03-141
International student exchange agencies		
registration	PROP	96-07-069

SKAGIT VALLEY COLLEGE

Antidiscrimination policy	PERM	96-01-077
Grievance procedure	PERM	96-01-077
Meetings	MISC	96-01-015
Sexual harassment policy	PERM	96-01-077

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Adult family homes		
licensing and operation	PROP	96-06-040
Aging and adult services		
adult residential care	PREP	96-02-022
home and community assistance, eligibility	PREP	96-08-041A
	PROP	96-04-084
	PROP	96-09-032
	PREP	96-02-021
	PROP	96-06-014
	PERM	96-09-035
nursing home discharge allowance		
social services for families, children, and adults	PREP	96-06-009
Aid to families with dependent children (AFDC)		
assistance units	PROP	96-03-099
	PERM	96-06-045
eligibility	PREP	96-03-096
	EMER	96-04-001
	PROP	96-07-009
	PERM	96-01-008
income policies		
incorrect payments		
determination of intent	PREP	96-06-008
medical programs, eligibility	EMER	96-02-003
	PREP	96-02-004
	EMER	96-08-036
	PREP	96-01-018
	PROP	96-04-035
	PERM	96-07-025
payment standards	PROP	96-01-062
	PERM	96-04-002
success through employment program (STEP)	EMER	96-02-048
	PROP	96-04-034
	PERM	96-07-021
	PERM	96-03-040
time-loss compensation		
Alcohol and substance abuse, division of		
behavior management and temporary protective holding of patients	PREP	96-01-061
	PROP	96-09-078
worker compensation employer premium discount	PREP	96-08-079
Child care		
eligibility	EMER	96-01-007
	PROP	96-06-026
	PERM	96-09-058
Child care facilities		
employment disqualification, appeal	EMER	96-01-009
	PROP	96-03-105
	PROP	96-05-061
	EMER	96-05-067
	EMER	96-05-068
family child day care homes		
fire safety	PROP	96-07-010
licensing	PROP	96-07-010
child protective services		
investigation notification	PREP	96-09-076
Child support, division of		
hearing process	PROP	96-06-039
	PERM	96-09-036
	PROP	96-06-039
	PERM	96-09-036
obligations		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Community options program entry system (COPEs)			pregnant women, eligibility	PREP	96-02-047
income exemptions	PREP	96-03-098		EMER	96-02-049
Crisis residential centers			resources, availability	EMER	96-08-021
licensing requirements	PROP	96-06-051		PERM	96-01-005
	EMER	96-07-079		PROP	96-01-010
				PROP	96-06-010
Developmental disabilities, division of community residential services, nursing assistant training	PROP	96-07-090	special assistance	PERM	96-09-033
			subrogation and assignment	PREP	96-07-041
Food stamp program			transportation	PREP	96-08-091
certification periods	PREP	96-07-094	Nursing homes	PREP	96-07-043
definitions	PROP	96-03-013	accounting and reimbursement system		
	PERM	96-06-031		PROP	96-03-066
income deductions	PROP	96-03-097		PERM	96-06-041
	PERM	96-06-046		PREP	96-07-024
income eligibility	PROP	96-01-069	Overnight youth shelters		
income of nonhousehold members	PREP	96-01-068	licensing requirements	PREP	96-05-057
ineligible household members	PROP	96-09-034	Refugee assistance		
resource exemptions	PROP	96-04-008	eligibility	PROP	96-01-063
	PERM	96-07-022		PROP	96-02-050
retrospective income budgeting	PREP	96-01-070		PERM	96-05-009
special circumstances budgeting	PREP	96-01-072	Youth, crisis residential centers		
students, eligibility	PREP	96-01-071	licensing requirements	PROP	96-06-051
	PROP	96-04-036		EMER	96-07-079
	PERM	96-07-053			
violations and disqualification	PROP	96-03-095			
	PERM	96-06-042			
Income assistance			SOUTH PUGET SOUND COMMUNITY COLLEGE		
allocation of income	PROP	96-07-014	Meetings	MISC	96-01-067
	EMER	96-09-075		MISC	96-04-063
special assistance	PREP	96-07-041		MISC	96-07-007
standards of assistance	EMER	96-02-043		MISC	96-09-061
	PROP	96-07-008		MISC	96-09-062
telephone assistance	PERM	96-01-017	SOUTHWEST AIR POLLUTION CONTROL AUTHORITY		
Juvenile rehabilitation administration			Asbestos control standards	PREP	96-05-070
security standards	PREP	96-02-041	Petroleum contaminated soil, emissions	PROP	96-09-093
Long-term care					
receipt of person's assets, penalties	PREP	96-04-024	SPOKANE, COMMUNITY COLLEGES OF		
			Meetings	MISC	96-07-005
resource exemptions	PREP	96-04-055			
	PROP	96-09-079	SUPREME COURT		
Medical assistance			Guilty pleas, defendant's statement	MISC	96-01-042
assets, transfer	PREP	96-05-034			
categorically needy, eligibility	PREP	96-04-025	TACOMA COMMUNITY COLLEGE		
	PROP	96-09-077	Hazing policy	PREP	96-09-050C
children's health program	PREP	96-05-035	Meetings	MISC	96-02-060
	EMER	96-08-021	Public records, availability	PREP	96-09-050B
dental care	PERM	96-01-006	Student records		
	PREP	96-08-030	confidentiality	PREP	96-09-050A
	PREP	96-08-031	Tuition and fee waivers	PREP	96-09-050
durable medical equipment	PREP	96-07-042			
eligibility	PREP	96-07-004	TAX APPEALS, BOARD OF		
	PROP	96-08-037	Meetings	MISC	96-01-049
hospital services	PREP	96-07-044			
income eligibility standards	PROP	96-02-042	THE EVERGREEN STATE COLLEGE		
	PREP	96-04-056	Student conduct code	PREP	96-03-138
	PERM	96-05-010		PROP	96-08-066
	EMER	96-08-021			
	EMER	96-08-036	TRANSPORTATION COMMISSION		
institutionalized client			Meetings	MISC	96-02-040
income eligibility	EMER	96-02-003		MISC	96-05-069
	PREP	96-02-004		MISC	96-08-014
	PREP	96-05-034			
	PREP	96-08-019	TRANSPORTATION IMPROVEMENT BOARD		
	EMER	96-08-020	Meetings	MISC	96-01-028
	PROP	96-08-037		MISC	96-03-023
limited casualty program--Medically indigent (LCP-MI), eligibility	PROP	96-04-037		MISC	96-07-003
	PERM	96-07-023	Transit agencies, funding	MISC	96-09-022
				PROP	96-01-100
managed care				PERM	96-04-015
exemptions	PREP	96-08-032	TRANSPORTATION, DEPARTMENT OF		
physician services	PREP	96-07-045	Air search and rescue		
point-of-sale prospective drug			management	PERM	96-02-067
use review	PROP	96-05-087		PREP	96-03-044
	PERM	96-08-018			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

registration	PERM 96-02-067	Motor vehicles	
	PREP 96-03-044	sound level measurement	PREP 96-06-060
training	PERM 96-02-067		PROP 96-09-080
	PREP 96-03-044	Regional training council	
Checks dishonored by nonacceptance or nonpayment, fees and costs		meetings	MISC 96-03-036
Ferries	PERM 96-01-090		
bicycle passes	PROP 96-02-024	WASHINGTON STATE UNIVERSITY	
	PERM 96-05-046	Meetings	MISC 96-01-024
hazardous materials transport, fee postal service vehicles, preferential loading	PROP 96-09-023	Vancouver campus parking	MISC 96-01-026
	PROP 96-02-025		PREP 96-08-039
	PERM 96-05-048	WESTERN WASHINGTON UNIVERSITY	
regional fare integration projects	PROP 96-02-023	Admission and registration	PERM 96-01-058
	PERM 96-05-047	Bicycle traffic and parking	PREP 96-08-033
Highway advertising control		Library, use of facilities	PROP 96-01-098
billboard placement	PERM 96-03-031		PERM 96-05-029
definitions	PREP 96-06-022	Media services, access	PROP 96-01-099
Public private initiatives in transportation		Parking and traffic	PERM 96-05-030
public advisory elections	PERM 96-03-107		PREP 96-03-110
Public records, availability	PREP 96-09-013	Skateboards	PROP 96-09-009
Regional transportation planning process	PROP 96-01-012	Student rights and responsibilities	PREP 96-08-034
	PROP 96-05-032		PERM 96-03-103
			PREP 96-03-109
			PROP 96-08-038
UNIVERSITY OF WASHINGTON		Tuition and fees	
Meetings	MISC 96-01-114	refunds	PERM 96-01-058
	MISC 96-02-075		
	MISC 96-03-021	WORKFORCE TRAINING AND EDUCATION	
	MISC 96-03-022	COORDINATING BOARD	
	MISC 96-03-061	Meetings	MISC 96-02-074
	MISC 96-03-062		MISC 96-03-015
	MISC 96-03-111		MISC 96-05-049
	MISC 96-03-147		MISC 96-06-054
	MISC 96-04-012		MISC 96-09-051
	MISC 96-04-051		
	MISC 96-05-038		
	MISC 96-07-017		
	MISC 96-07-018		
	MISC 96-07-068		
Student conduct code	PROP 96-03-091		
UTILITIES AND TRANSPORTATION COMMISSION			
Administrative procedure	PERM 96-02-083		
Gas utilities			
pipeline safety	PROP 96-03-148		
Telecommunications			
federal Telecommunications Act, implementation	PREP 96-08-073		
VOLUNTEER FIRE FIGHTERS, BOARD FOR			
Meetings	MISC 96-03-029		
	MISC 96-06-012		
WASHINGTON STATE HISTORICAL SOCIETY			
Meetings	MISC 96-09-052		
Rules coordinator	MISC 96-03-146		
WASHINGTON STATE LIBRARY			
Library commission			
meetings	MISC 96-03-058		
	MISC 96-06-002		
	MISC 96-09-019		
responsibilities	PERM 96-04-045		
Local library grants	PERM 96-04-045		
WASHINGTON STATE PATROL			
Fire protection certification and accreditation guideline committee			
meetings	MISC 96-02-012		
Fire protection policy board			
meetings	MISC 96-04-050		
Fire protection training and review committee			
meetings	MISC 96-03-019		